

# **CITY OF FORT BRAGG**

## **Personnel Rules and Regulations**



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## **Section 1. INTRODUCTION**

- 1.1. These Personnel Rules and Regulations (hereafter “Rules”) generally describe the employment relationship between the City of Fort Bragg and its employees. These Rules apply to all City employees, except where otherwise indicated in these Rules or where an applicable memorandum of understanding (“MOU”) specifically conflicts with a Rule, in which case the MOU provision shall govern. As specified herein, some Rules apply only to employees in the “Classified Service.” The “Classified Service” consists of all full-time employees of the City, but does not include elected officials, Council appointees, the City Manager, members of the executive management group, appointive officers serving without compensation, or part-time, temporary, provisional, seasonal or emergency employees.
- 1.2. These Rules were established to conform and be complementary to the City’s Municipal Code. In cases where there is deemed to be a conflict between a Rule and the Municipal Code, the Municipal Code shall prevail.
- 1.3. Department managers may issue additional rules or policies as deemed necessary for the efficient administration of the department. However, such departmental rules or policies shall not conflict with these Rules. In cases where there is deemed to be a conflict between a department rule and these Rules, these Rules shall prevail.
- 1.4. These Rules may be amended from time to time. However, in order to be effective, the amendment must be in writing and approved by City Council. Whenever such amendments affect the wages, hours or other terms or conditions of employment, they shall be subject to the meet and confer process as established by State law and the City’s Employer-Employee Organization Relations Resolution.
- 1.5. Each employee will be given a copy of these Rules and is responsible for reading and complying with these Rules.

## **Section 2. EMPLOYER/EMPLOYEE RELATIONS**

- 2.1. The City’s labor relations policies are governed by the Meyers-Milias-Brown Act (MMBA), Government Code section 3500 et seq. The City has in place an Employer-Employee Organization Relations Resolution which specifies the City’s local rules, rights and obligations regarding labor relations.
- 2.2. Under the City’s Employer-Employee Organization Relations Resolution and the MMBA, the City recognizes certain employee organizations as the exclusive representative for purposes of labor negotiations. For represented employees, the City meets and confers with employee labor representatives regarding wages, hours and others terms and conditions of employment, and provides advance notice of certain matters as specified by the City’s labor relations resolution. Employee pay schedules and various benefits are set forth in memoranda of understanding (known as “MOUs”) agreed upon by the City and the recognized labor representatives.

- 2.3. Employees having questions concerning matters included in their MOUs may contact their labor representative or the City's Human Resources Department directly.

### **Section 3. POSITION CLASSIFICATION**

- 3.1. The City Manager or his/her designee shall prepare a Position Classification Plan which sets forth all the positions in the classified service of the City including position title and a general description of the duties and responsibilities of each position. The Position Classification Plan shall also group all positions in the classified service into classes. Positions within the same class will be approximately of equal difficulty and responsibility, require the same general qualifications, and can be equitably compensated within the same range of pay under comparable working conditions.
- 3.2. The classification or position descriptions may be abolished or amended from time to time by the City Manager as deemed in the best interest of the City service. In addition, new classification or position descriptions may be added to the City's Position Classification Plan. If new positions are added to the City service, such positions shall be allocated to an appropriate class by the City Manager or his/her designee.
- 3.3. If employees believe they are performing work outside the scope of the classification description covering their position, they should report the information, in writing, immediately to the City Manager. If deemed appropriate by the City Manager, a review of the employee's duties will be conducted, in consultation with the employee and the employee's department manager. The City Manager or his/her designee will notify the employee and department manager of the final determination. If appropriate, the employee's position may be reallocated to a different classification. The City Manager, in his/her discretion, may require the employee to successfully complete a promotional examination before being reallocated to a higher classification, and shall may require the employee to serve a probationary period in the new classification. Request of such a classification review shall be limited to once per calendar year.
- 3.4. Promotion without Examination. If the scope of duties which a regular employee is performing is determined to be in a higher classification, the City Manager or his/her designee may approve the employee's reclassification to the higher classification without examination; provided, however, that all of the following conditions are met:
- (1) The employee has been performing such higher duties for a period of not less than six (6) months prior to the date the position was reviewed;
  - (2) The higher duties have been assigned to the employee as part of the natural growth of the position within the department involved and there appears to be no evidence of evasion of the compensation plan relating to promotions;

- (3) The employee so promoted shall serve a probationary period in the higher classification for the time as specified in Section 5.2.2 of these Rules;
- (4) Said employee shall receive the salary assigned to the higher position from the date of probationary appointment to the higher position.

**Section 4. RECRUITMENT, SELECTION AND APPOINTMENT FOR CLASSIFIED EMPLOYEES.**

**4.1. Recruitment.**

4.1.1. The City may utilize any legitimate recruitment procedure for attracting qualified applicants. Recruitments may be “open” or may be limited to City employees, depending on the City’s needs. While it is the City’s policy to recruit the best qualified applicants for City positions, the City will make efforts to promote persons already employed by the City.

4.1.2. The City will give reasonable notice to all of its employees concerning the City’s employment opportunities. Announcements of promotional selection processes shall be supplied to City employees via email and/or posting on the City’s website. Department managers may call such announcements to the attention of employees in the department who might be interested.

**4.2. Applications for Employment.**

4.2.1. Each candidate for City employment shall complete those applications forms designated by the City. An applicant’s failure to provide complete and accurate information on all application materials shall be grounds for immediate disqualification in the application process, and may result in dismissal from employment. Once submitted to the City, applications shall not be returned.

4.2.2. The City provides employment-related reasonable accommodations to qualified individuals with disabilities within the meaning of the California Fair Employment and Housing Act and the Americans with Disabilities Act. If an applicant desires a reasonable accommodation in order to participate in the application or selection process, the applicant should submit a written request to the Human Resources office

4.2.3. Applicants must submit applications on or before the filing deadline stated in the job announcement. However, the Human Resources Department may permit a letter, resume or other indication of interest to be accepted, pending timely receipt of a properly completed application.

4.2.4. When necessary to meet continued requirements for filling positions due to non-availability of applicants for a class or position, or due to a high turnover rate, the closing date for any selection process may be indefinite and applicants may be tested continuously in such manner and at such times and places as may be provided by the City. Applicants who fail to achieve a passing score in such an open continuous examination may not compete again until the lapse of ninety (90) days between the first and second testing and one hundred and twenty

(120) days between the second and third such testing, unless stipulated to the contrary on the job announcement. The City may exclude such applicants from further testing at its discretion.

4.2.5. As part of the pre-employment procedure, applicants may be required to supply references, and submit to a thorough background check by the City. In addition, all employees must be physically and mentally capable of performing the essential functions of their jobs with or without reasonable accommodation. The City shall have the right to conduct a complete and exhaustive background investigation on all applicants seeking employment in the City of Fort Bragg, including a criminal background check, where applicable, and a medical and/or psychological examination by City-retained medical practitioners, where deemed appropriate by the City. Any medical or psychological examination shall be conducted only after a conditional job offer has been made and, in accordance with applicable law.

4.2.6. If an applicant is disqualified from appointment to a position for failing to meet the medical and psychological standards for the job class, the applicant may file a written request to review the disqualification. Such request must be submitted to the Human Resources Office no later than five (5) working days after the postmarked date of the notification of disqualification. The applicant may submit medical evidence supporting his/her claim that he/she should not have been disqualified. The City Manager will review submitted documents and make a final determination. If the disqualification is upheld, the applicant has no further right to appeal.

4.3. **Disqualification or Rejection of Application.**

4.3.1. The City may reject or disqualify the application of any person for admission to a selection process, or decline to examine an applicant, or withhold a person from the eligible list for certification for any legitimate reason. An applicant who is not already employed by the City has no right to grieve or appeal any such actions by the City.

4.4. **Selection and Examination/Assessment Process.**

4.4.1. All hiring, including promotions, to positions in the classified service shall be made according to merit and fitness. The City may utilize any legitimate objective method to determine the qualifications of applicants, including without limitation, written tests, physical agility tests, oral examinations, panel interviews assessment centers and oral interviews. The City may rate the candidates and list successful applicants on a "list of eligibles."

4.4.2. If candidates fail to qualify as eligibles for the class for which the selection process was instituted, those candidates may, with the approval of the Human Resources Office, be rated with reference to their eligibility for a lower position class for which a selection process is in progress, in case any of the candidates have indicated willingness to accept appointment to positions in any such lower class.

- 4.4.3. Candidates shall be given written notice of whether they passed or failed the examination/assessment process. Within five (5) working days of the postmarked date of this notice, candidates may inspect their examination papers and request to have ratings reviewed and corrected if the candidate believes any error in the testing has occurred. Such corrections so made will be evaluated by the Human Resources Office and appropriate action taken. To make an inspection of examinations papers, the candidate must schedule an appointment during regular business hours in the Human Resources Department. Candidates may be prohibited from inspecting examination papers if review of such materials is prohibited by the consulting agency that prepared the examination. Candidates cannot have access to the rating sheets of the individual raters, but may have access to a composite description of the rating sheets, upon request.
- 4.4.4. Candidates who fail the examination/assessment process may not reapply for the same position for 12 months from the date of initial application. Such candidates are not barred from applying for any other City position during the 12-month waiting period.
- 4.4.5. When deemed appropriate by the City Manager or his/her designee, vacancies within the classified service may be filled by promotion of employees. Such promotion shall be based on an internal competitive selection process, taking into consideration the employees' performance evaluations and past City service and other legitimate criteria as determined by the City Manager or his/her designee.
- 4.4.6. The City Manager or his/her designee may authorize a noncompetitive promotional selection process to establish eligibility for appointment to a higher class as a result of a reclassification or creation of a new classification.
- 4.5. **Eligible Lists.**
- 4.5.1. An eligible list shall be prepared indicating the names of those candidates qualifying for appointment, ranked based on the selection process. New names may be added to the list from time to time upon obtaining additional qualified candidates pursuant to the selection process. Names of eligibles accepting other than regular full-time appointment shall remain on the eligible list during the life of said list, unless removed for other reasons.
- 4.5.2.
- 4.5.3. The eligible list shall be maintained for the duration specified by the Human Resources Office.
- 4.5.4. The Human Resources Office may remove or withhold from certification the name of an eligible on an eligible list for any legitimate reason. Whenever the name of an eligible on a list is removed or withheld from certification, the person whose name is removed shall be informed of the action and the reasons therefore, via letter forwarded to the last address of record.
- 4.5.5. When vacancies in the classified service occur, the department manager may submit a request for a list of eligibles to fill the vacancy. Upon receipt of this



request, the Human Resources Office shall certify in writing the names of eligibles on the appropriate eligible list who are willing to accept the position for which certification is requested. Eligibles may be required to submit to additional objective methods to determine the qualifications of applicants, including without limitation, written tests, physical agility tests, oral examinations, panel interviews, assessment center and oral interviews.

- 4.5.6. Whenever an eligible list contains fewer than three (3) qualified candidates, the department manager may request that a new eligible list be prepared. The City may in its discretion cause a new list of eligibles to be generated in the event the City believes the circumstances warrant a new list. Such circumstances include but are not limited to: the age of the eligible list, an inadequate number of candidates, and changing job requirements.

4.6. **Appointment.**

- 4.6.1. The City Manager is the only City employee authorized to hire. All candidates recommended for appointment by a department head may be interviewed by the City Manager or his/her designee prior to appointment. This includes part-time, temporary, seasonal and promotional appointments.

- 4.6.2. The City Manager may appoint any qualified applicant from the list of eligibles to a regular position in the classification for which the applicant is qualified. Positions may be full-time or part-time, depending on the needs of the City. In the absence of a list of eligibles, the City Manager may make temporary appointments pending development of a new list.

4.7. **Oath of Office.**

Every employee of the City, before entering upon his/her duties shall take the constitutional oath, with said oath to be filed with the Human Resources Department.

4.8 **Police Officer Recruitment Bonus.**

Any member of the Police Department (PD) staff, excluding the Police Chief, is eligible to receive a Recruitment Bonus, if he or she successfully recruits an applicant who is offered and accepts employment with the City of Fort Bragg, as a Police Officer. The recruiting PD staff member seeking the bonus must submit an acknowledgment of recruitment efforts and a letter of recommendation for the Police Officer applicant on or before the last day the position is open or if the recruitment is continuous, prior to any contact by Human Resource or PD staff for an interview. If more than one PD staff member submits a timely acknowledgement-recommendation letter for a successful recruit, the employees will split the bonus amount equally. PD staff who attend job fairs or other recruitment events representing the City of Fort Bragg are not eligible for the recruitment bonus for any applicant who attended the same event.

The bonus will be paid in two payments. The first payment of \$2,000 will be paid to the PD employee after the successful recruit has signed the final offer letter. A second payment of \$2,000 will be paid upon successful completion of the Field

Training program by the recruit. Both payments will be subject to payroll withholding taxes, including FICA, Medicare, and State and Federal Income Tax.

This bonus program may be rescinded by City Administration, if and when it is determined unnecessary based on market conditions for hiring police officers.

4.9 **Police Officer Hiring Bonus**

Candidates for Police Officer are eligible for a hiring bonus upon signing a final offer of employment from the City. Successful Candidates will receive the bonus in their first paycheck, subject to repayment of 50% or half the total bonus if the new hire does not successfully complete the 18-month probationary period. For lateral candidates, those with experience and a Basic POST certificate, the bonus is \$6,000. For recruit candidates, those without experience and/or no POST certificate, the bonus is \$5,000. The bonus will be subject payroll withholding taxes, including FICA, Medicare, and State and Federal Income Tax.

This bonus program may be rescinded by City Administration, if and when it is determined unnecessary based on market conditions for hiring police officers.

**Section 5. PROBATIONARY PERIOD**

5.1. **Purpose.**

The probationary period shall be an integral part of the examination process and shall be utilized as an opportunity to observe the employee's work, to provide special training, to assist the employee in adjusting to the new position, and reject any employee whose work performance, adaptation or personal conduct fails to meet required standards. A probationary employee shall have no rights of tenure and may be terminated without cause, without notice, and without any right of appeal. Probationary periods do not apply to "at-will" employment, which can be terminated at any time with or without cause.

5.2. **Duration.**

5.2.1. Initial Probationary Period. All regular employee initial appointments to regular full-time positions in the classified service shall be subject to a 12-month probationary period. All Police Department employee (sworn and nonsworn) initial appointments to regular full-time positions in the classified service shall be subject to an 18-month probationary period.

5.2.2. Promotional Probationary Period. All regular employee promotional appointments a new classification of employment shall be subject to a six-month probationary period. All Police Department employee (sworn and nonsworn) promotional appointments a new classification of employment shall be subject to a 12-month probationary period.

5.3. **Extension.**

An employee's probationary period may be extended for a period of up to six (6) months by the department manager upon approval by the Human Resources

Office to allow further observation of an employee's work performance or as otherwise appropriate. Upon such extension, the employee shall be notified in writing. Periods of time during unpaid absences shall automatically extend the probationary period by the number of days of the absence. Further, periods of time on paid leave exceeding ten (10) working days shall automatically extend the probationary period by the number of days that the employee is on leave.

5.4. **Promotional Probationary Period.**

When a regular employee is promoted, a promotional probationary period shall begin on the effective date of the promotion. During the probationary period of a promoted employee, the department manager may recommend that the employee be demoted to the former position, range and salary if the employee's performance and/or conduct do not meet the standards set for the position to which the employee was promoted. Such recommendation shall be made in writing and shall be approved by the Human Resources Office. An employee on promotional probation shall have no rights of tenure in the promotional position and may be returned to his/her former position without cause, without notice and without any right of appeal.

5.5. **Probationary Period after Demotion.**

If an employee has not attained regular status in the class to which demoted, the employee shall then be required to complete the normal probationary period, less any service previously accrued in such lower class.

5.6. **Action at End of Probationary Period.**

Prior to the end of the employee's probationary period the department manager shall take any one of the following recommendations to the City Manager:

- (1) Affirm in writing that the services and conduct of the employee have been found to be satisfactory and recommend that the employee be given regular status.
- (2) Recommend termination of the services of the employee serving an initial probationary period.
- (3) Recommend demotion and/or transfer of a promoted employee. Demotion shall be made to the employee's former class and pay step.
- (4) Recommend an extension of the employee's probationary period, as provided herein.

**Section 6. NON-CLASSIFIED APPOINTMENTS**

- 6.1. The City may make appointments which are provisional, seasonal, temporary, or emergency or on a transitional basis whenever it has a legitimate need to do so. Such appointments shall not attain regular status. Such positions shall be deemed "at will."

- 6.2. At will positions are not subject to the job protections described in these Rules, including process and rules for recruitment, discipline, termination, probationary periods, testing and appointment from eligible lists. The employment of at will personnel may be terminated at any time, for any legal reasons, and without any requirement of demonstrating “good cause.” At will employees have no right to appeal any discipline or termination.

## **Section 7. MANAGEMENT AND CONFIDENTIAL APPOINTMENTS**

- 7.1. Appointments to management and confidential positions reporting directly to the City Council or City Manager are not subject to the Rules regarding recruitment, selection, testing and eligible lists.
- 7.2. Confidential positions are those positions which are privy to information that affects employee relations.
- 7.3. Management positions may be designated as “at will” (consistent with the Municipal Code).

## **Section 8. TRANSFERS, REASSIGNMENTS AND REALLOCATIONS**

- 8.1. Whenever it is found necessary to transfer or reassign an employee from a position in one class to a position in another class, such transfer or reassignment may be made provided both positions are of the same rank, there is no increase or decrease in compensation, and the employee has demonstrated that he or she possesses the skills and aptitudes required for the position to which he or she is to be reassigned. Such transfers or reassignments may be initiated by an employee’s request, department manager’s request or by City management. Such transfer or reassignment may be made only when approved or recommended by both department managers involved (if more than one is involved), reviewed by the Human Resources Office and approved by the City Manager. The employee requesting a transfer must meet the minimum qualifications for the position.
- 8.2. In the event of a reallocation of a part-time position to a full-time position, the City Manager may reclassify the incumbent part-time employee to full-time or utilize the selection process to fill the reallocated position.
- 8.3. Depending on the circumstances, transferring an employee to another vacant position may be a reasonable accommodation, as defined by applicable laws.

## **Section 9. REINSTATEMENT AFTER RESIGNATION**

- 9.1. An employee who has resigned in good standing from City employment may be eligible for reinstatement to a former position or a position of the same class in another department without reexamination. To be eligible for reinstatement, the employee must make a request for reinstatement. The City, in its discretion, may refuse a request for reinstatement for any reason. Such reinstatement and the conditions of reinstatement must be approved by the City Manager.

- 9.2. Probationary Period. A reinstated employee shall be required to complete a full probationary period after reinstatement.

## **Section 10. PERFORMANCE EVALUATION PROGRAM**

- 10.1. The City may require employees to undergo performance evaluations every 12 months after the probationary evaluation, throughout their employment. This policy is to be used as a guideline, and failure to receive performance evaluations at 12-month intervals does not create a right of appeal. The City shall prescribe appropriate forms for completing performance evaluations. The City's performance evaluation program includes an opportunity for employees to discuss their concerns with department managers, upon request.
- 10.2. Where appropriate, performance evaluations may include an evaluation of the employees which addresses the criteria for merit salary advancements as set forth in Section 12.4.1.
- 10.3. Probationary Evaluation. Upon completion of six months probation (whether initial or promotional) the department manager shall report in writing an evaluation of the employee's work performance and conduct. The probationary employee shall be advised by the appropriate supervisor of that evaluation.
- 10.4. Performance evaluations shall be maintained in employee personnel files. Employees may submit rebuttals to their performance evaluations, and the rebuttals shall also be maintained in the personnel files with the performance evaluations.

## **Section 11. FITNESS FOR DUTY EVALUATIONS**

- 11.1. The City, at its expense, may require an employee to undergo a fitness for duty evaluation for any reasonable cause.

## **Section 12. COMPENSATION**

- 12.1. The City has prepared a Merit Salary and Compensation Plan, approved by the City Council. In accordance with the City's Municipal Code, the City Manager administers and maintains this Plan and may request appropriate revisions to the Plan as often as necessary to assure that the Plan provides uniform and equitable compensation rates and policies.
- 12.2. The official wage rates for all employees shall be calculated on the basis of the biweekly rates applicable and comparable to the salary range established for each class in the Merit Salary and Compensation Plan.
- 12.3. A newly hired employee shall be compensated at the base or minimum rate on the salary range to which the employee's class is allocated. If exceptional recruitment difficulties are encountered, or exceptional qualifications of a candidate for employment indicate that a higher hiring rate would be in the City's best interest, appointment at a higher rate in the salary range may be authorized by the City Manager.

12.4. Merit Salary Advancements. Salary ranges are intended to furnish administrative flexibility in recognizing individual differences among positions allocated to the same class, in providing employees incentive, in rewarding employees for meritorious service, and in meeting emergency conditions requiring pay adjustments.

12.4.1. Merit salary advancements shall be made in accordance with the provisions of this section and in accordance with the following criteria:

- (1) Unsatisfactory Performance means that on an overall basis, the employee has, during the review period, performed in a manner significantly below the level to be expected considering the employee's previous experience, tenure in the class and the employee's duties and responsibilities, and that it appears to be reasonably certain that the employee is either unwilling or unable to perform satisfactorily. Employee requires excessive supervisory guidance and direction.
- (2) Needs Improvement means that over significant periods of time during the review period, the employee has not performed up to the level to be expected, considering the employee's tenure in the class and job duties and responsibilities and that the employee has failed to meet certain job requirements standards. The employee's potential for satisfactory performance appears to be good.
- (3) Satisfactory Performance means that the employee's overall performance during the review period has been at the level expected considering the employee's previous experience, tenure in the class and job duties and responsibilities. The employee is generally meeting position standards in a steady and reliable manner.
- (4) Above Satisfactory Performance means that the employees overall performance, during the review period, consistently met all minimum standards and often exceeded expected levels of performance considering the employee's previous experience, tenure in the class and job duties and responsibilities.
- (5) Exceptional Performance means that an employee's overall performance during the review period has consistently exceeded expected levels of performance considering the employee's previous experience, tenure in the class, and job duties and responsibilities.

12.4.2. Salary advancements within an established range shall not be automatic, but shall be based upon satisfactory job performance as determined, and supported in writing, by the employee's supervisor, the recommendation of the department manager, review by the Human Resources Office and approval of the City Manager.

12.4.3. Merit salary advancements shall occur in accordance with the following procedures:

- (1) Initial Probationary Employees. Probationary (both initial and promotional) employees shall be eligible for merit salary advancement upon the completion of six (6) months of service within that class. Such employees shall be eligible for subsequent merit salary advancements upon the completion of subsequent twelve 12 month service intervals, except as otherwise provided in these Rules.
- (2) Single Step Increments. Merit salary advancements shall be granted in single step increments within the salary range for a particular class based upon performance. An employee may receive a merit salary adjustment in excess of one step, a maximum of one (1) time during such employee's tenure in a given class in recognition of outstanding service.
- (3) Reduction Increments. An employee who is being paid at a salary rate higher than the base rate established for the class may be reduced in increments of two and one-half percent (2-1/2%) upon the recommendation of the department manager and approval of the City Manager. Such action shall cause the employee to receive a new merit review date. The new date shall be based upon the effective date of his reduction. Such salary reduction shall be consistent with the Rules pertaining to disciplinary actions contained herein.

12.5. These Rules do not preclude the creation of separate management pay plans which, if adopted by the City Council, must be administered as separate compensation plans in accordance with the procedures adopted for such plan(s) by the City Council.

12.6. Salary on Promotion. An employee who is promoted to a position in a class allocated to a higher salary range than the class to which the employee was formerly assigned shall receive the nearest higher monthly salary in the higher salary range. The employee shall be given a new merit review date for future merit salary advancement purposes. The new date shall be based upon the effective date of the promotion.

12.7. Salary on Transfer. An employee who is transferred from one position to another in the same class or to another position in a class having the same salary range shall be compensated at the same step in the salary range as previously received. The employee's merit review and anniversary date shall not change.

12.8. Salary on Suspension without Pay. Any employee who has been suspended for disciplinary reasons shall not receive pay for the duration of the suspension; nor shall any benefits which are calculated based on hours worked be credited to the employee, including, but not limited to, sick leave, vacation, retirement, or disability insurance, during the period of suspension. Should such suspension be later modified or revoked, the employee shall be entitled to receive payment to compensate for loss of income and benefits during the period of suspension.

12.9. Salary on Demotion.

12.9.1. Involuntary. An employee who is involuntarily demoted shall receive a salary adjustment as determined by the Human Resources Office. The employee shall

be assigned a new merit review date based upon the effective date of the demotion.

- 12.9.2. Voluntary. An employee who is demoted upon personal request shall receive a salary reduction to the nearest lower monthly salary in the salary range for the class to which demoted if the maximum salary for the class to which demoted is less than the employee's current salary rate; or shall continue to earn the current rate of pay if the current rate is the same or less than the maximum rate of the class to which demoted. The employee shall retain the merit review date applicable to the higher position.
- 12.10. Salary on Position Reclassification. When a regular or probationary employee's position is reclassified and the employee is appointed to the new position, the salary rate shall be determined as follows:
- 12.10.1. Higher Range. If the position is reclassified to a class with a higher salary range than the previous class, the salary and merit review date shall be set in the same manner as if the employee had been promoted.
- 12.10.2. Equal or Lower Range. If the salary of the employee is the same or less than the maximum of the new class, the salary and merit increase eligibility date of the employee shall not change. If the salary of the employee is more than the maximum of the new class, the salary of the employee shall not change, and the compensation rate shall be frozen until such time as the maximum rate for the classification exceeds the salary of the employee.
- 12.11. Salary for Portion of Pay Period. A non-exempt employee serving on a full-time basis who works less than a full pay period, except when on authorized leave of absence with pay, shall receive as compensation for such period an amount equal to the number of hours worked times the employee's hourly rate. For exempt employees absent from work for a period of less than one day duration, the amount of compensation paid to said employee shall not be subject to a deduction even though the absence cannot be covered or paid through accumulated vacation, sick leave or compensatory time off (unless it is determined in accordance with law that such deduction will not result in the loss of exempt status of the employee).
- 12.12. Adjustment Effective Date. Salary adjustments specified above shall be given at the beginning of the payroll period immediately following the employee's merit review date.
- 12.13. Travel and Other Business Expenses. Prescribed rates of pay do not include allowances for official travel or other expenses incurred on City business, or allowances made to employees for the official use of personally owned automotive equipment. Employees shall be reimbursed for such expenses as approved by the City in such amounts as designated by City Council policy regarding reimbursement of such expenses.
- 12.14. Pay for Part-Time Work. Employees who work on less than a full-time basis shall be paid on an hourly basis at an hourly rate prescribed in the Compensation Plan.



- 12.15. Temporary Assignment. If an employee is temporarily required to perform the duties of a higher-paid position for a period in excess of four (4) work days, said employee shall receive additional compensation equal to five percent (5%) of his/her current salary or the salary of the employee so replaced, whichever is less, for the entire period of such assignment. The Human Resources Office shall be notified in writing by the department head prior to each such temporary assignment. The Human Resources Office will prepare a Personnel Action Form for approval by the Department Head and City Manager.

### **Section 13. WAGE AND HOUR BENEFITS / OVERTIME**

- 13.1. The City is committed to observing all of its obligations under the Fair Labor Standards Act ("FLSA"). These rules, as well as all applicable provisions in the Memoranda of Understanding and all City pay practices, shall comport with, and shall be interpreted to ensure the minimum requirements of the FLSA.
- 13.2. The City designates as "FLSA Exempt" those employees who work in professional, executive or administrative capacities and who are therefore not entitled to overtime compensation under the FLSA. Except when necessary to address an emergency or special circumstances, employees who are entitled to overtime compensation under the law may not work outside of regularly scheduled working hours, or during unpaid meal periods, without the prior authorization of a supervisor. In any event, employees shall report overtime work as soon as possible after the work is performed. Violations of this Rule may result in discipline, up to and including termination of employment.

### **Section 14. ATTENDANCE / MEAL PERIODS / REST PERIODS**

- 14.1. Workweek.
- 14.1.1. The basic workweek for full time employees shall be forty (40) hours per week, in a seven-day period. The workweek commences at 12:01 a.m. every Sunday a.m., and is a regularly recurring seven (7) day period ending at 12 Midnight every Saturday p.m.
- 14.1.2. The City shall establish and may modify regular working hours for its employees. The City may require employees to work overtime and to perform standby responsibilities. Employees shall be responsible for reporting to work on time, and observing the work schedule established for their department.
- 14.2. Meal Periods. Unless otherwise established for a department or particular employees, employees shall receive a thirty (30) to sixty (60) minute meal period that shall not be compensated. During the meal period, the employee shall be completely relieved of duties. If the employee is authorized in advance and performs work during the meal period, the employee shall be compensated for such time. Meal periods may not be used to shorten the workday unless the employee obtains express prior approval from his/her supervisor.
- 14.3. Rest Periods. Unless otherwise established for a department or particular employees, employees shall have a fifteen (15) minute rest period for each half of their shift, as scheduled by the department director. The rest period may be

interrupted or cancelled if necessary to complete work and shall be compensated time. The rest periods may not be combined or used to shorten the workday – e.g., by taking a break at the beginning or end of the workday.

## **Section 15. LEAVES**

### **15.1. General Provisions**

- 15.1.1. Employees are expected to be at work at scheduled times. To ensure public accountability and the integrity of public service, all employees are expected to account for their absences from work. Unless otherwise specified, leave time is chargeable in increments of one-fourth (.25) hours.
- 15.1.2. Leaves shall be subject to approval by the Department Head (or designee), and scheduled in advance whenever possible, with due regard for the City's service needs.
- 15.1.3. The City may employ any reasonable measure to ensure employees are properly accounting for leaves, including requiring reasonable proof that the basis for the leave is legitimate. Employees may be required to submit a medical certification of sickness supporting a request for sick leave. The City may require a fitness for duty certification from any employee returning from medical leave. Abuse of leave privileges, including working for a secondary employer while on sick leave, may subject an employee to disciplinary action, up to and including termination of employment.
- 15.1.4. Leave benefits are available only to regular, or probationary, employees, but are not available to seasonal, temporary or emergency employees. Regular part-time employees working more than 21 hours per week on average are eligible for the same leave benefits as regular full-time employees based on a proration of average hours worked (in accordance with Section 22).
- 15.1.5. Employees eligible for leave shall accumulate leave from the date of the employee's initial appointment to a full-time, regular or probationary position.

### **15.2. Available Leave Categories**

The City provides the following leave categories: (a) sick leave with pay; (b) sick leave without pay; (c) jury duty leave; (d) administrative leave with pay; (e) personal leave without pay; (f) bereavement leave; (g) vacation leave; (h) holiday; (i) compensatory time off; (j) family medical leave; (k) pregnancy disability leave/parental leave; (l) service-connected injury or illness leave;(m) military leave; and (n) school activity leave.

- 15.2.1. Sick Leave with pay: Full time employees generally accrue sick leave at the rate of eight (8) hours monthly/ninety-six (96) hours annually. An employee shall begin to accrue sick leave on the date of commencement of employment, and shall be eligible to use leave ninety (90) days after the commencement of employment.

- 15.2.2. Sick leave may only be used in cases of actual sickness or disability, unless otherwise provided below. Employees unable to report to work must notify their immediate supervisors not later than one hour before work is scheduled to begin, if possible, or by whatever method is established by the supervisor.
- 15.2.3. An employee may use a maximum of forty-eight (48) hours of sick leave per calendar year to attend to an illness of a child, parent, sibling, spouse or domestic partner, grandparent or grandchild of the employee. An employee who is a victim of domestic violence, sexual assault, or stalking may use a maximum of twenty-four (24) hours of sick leave per calendar year to tend to any related issues, including leave and court appearances.
- 15.2.3.1. Integration of Benefits. If an employee is on sick leave and is receiving SDI payments, the employee may continue to receive full pay from the City by requesting that the maximum weekly disability benefits be supplemented by the use of sick leave benefits. Under this option, the employee would tender his/her SDI payments to the City and the City would then continue to issue paychecks and deduct the value difference between the SDI payments and the employee's regular pay from the employee's sick leave allotment.
- 15.2.3.2. If an employee is determined to be eligible for disability retirement, the employee shall not be permitted to exhaust paid sick leave balances prior to retiring.
- 15.2.3.3. Sick Leave with pay for employees other than full-time employees: Employees other than full-time employees (e.g. part-time, seasonal, and/ or temporary workers) shall accrue and be able to use sick leave consistent with the requirements of the Healthy Families Act of 2014 (California Government Code Sections 245-249.) These employees shall begin to accrue sick leave on the date of commencement of employment, and shall accrue one hour for every thirty (30) hours worked. Employees shall be eligible to use paid sick leave no sooner than ninety (90) days after commencement of employment. Employees may use a maximum of three (3) sick leave days in one calendar year. These employees shall be able to use paid sick leave for the same reasons for which full time employees shall be able to use paid sick leave.
- 15.2.3.4. Employees may carry over up to six (6) days of sick leave to the following calendar year. If an employee is subject to a memorandum of understanding (MOU) provision or resolution provision that is more generous than this provision, the MOU or resolution will govern.
- 15.2.3.5. Sick leave shall not be paid out upon an employee's separation from the City. If an employee is subject to a MOU or resolution provision that is more generous than this provision, the MOU or resolution will govern.
- 15.2.4. Sick Leave without Pay. In the event paid balances are exhausted, and at the employee's request and the City's discretion, employees may be placed on sick leave without pay. Employees in such status do not accrue vacation or other benefits, or receive service credit and may be required to pay for all fringe benefits, such as health plan premiums, during the period of their leave without pay (unless the leave qualifies for Family and Medical Leave as set forth in these Rules). When the employee seeks to return to work from such leave, the City

may require that the employee provide medical certification of his/her fitness to perform his/her duties. The City may require the employee to undergo a fitness for duty examination before returning to work. If the employee is not fit to perform his/her duties, the City may consider placing the employee in another position, if available or separate the employee in accordance with applicable law.

- 15.2.5. Jury Duty. Employees summoned by state or federal court to jury duty shall be entitled to full pay during the period of jury service. Employees must keep their supervisors informed of their jury service schedule, and shall provide proof of jury service to the City upon request. Employees may retain such payment as may be allowed for travel, lodging and meal expenses. The employee is not required to submit to the City compensation received from the court for jury duty.
- 15.2.6. Administrative Leave with Pay: The City in its discretion may place an employee on administrative leave with pay. Employees on such leave shall be subject to the City's instructions during the employee's normal working hours.
- 15.2.7. Personal Leave without Pay. The City in its discretion may permit employees to be on personal leave without pay for a maximum of ninety (90) working days. Permission for such leave must be obtained in writing. Employees in such status do not accrue vacation or other benefits, or receive service credit and may be required to pay for all fringe benefits, such as health plan premiums, during the period of their leave without pay. Employees shall be entitled to take personal leave without pay when required by applicable law.
- 15.2.8. Bereavement Leave. The City shall grant leaves of absence with pay up to three (3) days when a member of the employee's or employee's spouse or domestic partner's immediate family dies. "Immediate family" means parent, current spouse or domestic partner, child, stepchild, grandparent, grandchild, brother, sister, step-siblings, current mother-in-law or current father-in-law, current son-in-law, daughter-in-law, sister-in-law or brother-in-law. The City, in its discretion, may require some proof that a death in the family has occurred. Bereavement leave is available only within seven (7) days of the death or funeral, unless the employee has made arrangements with the City regarding its use at a later date. In the event of unusual travel requirements, the City Manager may approve a total of five (5) total working days leave.
- 15.2.9. Vacation Leave.
- 15.2.9.1. Earned and accrued vacation leave may be taken as it accrues.
- 15.2.9.2. Employees accrue vacation at the following rates:
- (1) 3.39 hours per pay period for less than three consecutive years of service i.e. 0-36 months;
  - (2) 4.62 hours per pay period for three or more consecutive years of service and less than 10 years of service i.e. 37-120 months;
  - (3) 6.16 hours per pay period for 10 or more consecutive years of service i.e. more than 120 months.

- 15.2.9.3. Scheduling of vacations must be made in consideration of departmental workload.
- 15.2.9.4. Employees who separate from service shall be cashed out of their accrued but unused vacation at the employee's hourly rate at the time of separation from City service.
- 15.2.10. Holidays.
- 15.2.10.1. The City observes the following legal holidays, which are available to those employed at least thirty (30) days prior to the date of the holiday:
- (1) New Year's Day
  - (2) Martin Luther King Jr. Birthday
  - (3) President's Day
  - (4) Memorial Day
  - (5) Independence Day
  - (6) Labor Day
  - (7) Columbus Day
  - (8) Veteran's Day
  - (9) Thanksgiving Day
  - (10) Day After Thanksgiving
  - (11) Day before Christmas
  - (12) Christmas
- 15.2.10.2. Legal holidays falling on a Saturday are observed on Friday. Legal holidays falling on a Sunday are observed on Monday. To qualify for holiday pay, employees must have completed thirty (30) days of service, be on paid status on the regularly scheduled workday before and after the legal holiday, unless the absence is with the written permission of the City, or due to illness. Holidays occurring during an employee's vacation will be treated as a paid holiday. In recognition of differing work scheduled for safety and non-safety shift work employees, holidays may be specified to occur on the actual legal date.
- 15.2.10.3. Employees working on a holiday with City approval will be entitled to an "in lieu" holiday that may be taken on another date, within the fiscal year, subject to supervisory approval. In lieu holidays may not be carried over to another fiscal year, and are lost unless used prior to the end of the fiscal year.
- 15.2.10.4. Management employees who are required to work an established holiday may take equivalent time off on a subsequent regular work day with the approval of the department manager or City Manager.
- 15.2.11. Compensatory Time Off. Represented employees with agreements between the City and labor associations may be entitled to compensatory time off (CTO). Employees should consult their MOU, or contact the Human Resources Office regarding CTO.
- 15.2.12. Family and Medical Leave. The City will provide family and medical care leave for eligible employees in accordance with the requirements of the Family and

Medical Leave Act ("FMLA"), and the California Family Rights Act ("CFRA"). The City's policy on Family and Medical Leave is set forth in Section 16.

- 15.2.13. Pregnancy Disability Leave/Parental Leave.
- 15.2.13.1. Pregnancy Disability Leave. The City shall provide pregnancy disability leave to eligible employees in accordance with applicable law. An employee who is disabled by pregnancy may take a maximum of four months off work for pregnancy disability, childbirth or related medical conditions. The employee also may be eligible for intermittent leave or a reduced work schedule during her pregnancy if medically necessary. Employees must notify their immediate supervisor of any medical restrictions caused by the pregnancy. The City may require that the employee provide a medical certification indicating there is a medical need for the employee to take the time off or receive accommodation while continuing to work. Pregnancy disability leave qualifies for leave under the FMLA but not under CFRA. During pregnancy disability leave, employees are entitled to FMLA benefits in accordance with the Family and Medical Leave policy.
- 15.2.13.2. Parental Leave. After the employee's pregnancy disability ends, the employee is eligible for CFRA leave, in accordance with the Family and Medical Care Leave policy, to care for a newborn. The City may require that the employee provide a medical certification indicating when the pregnancy disability ended. In addition, employees may request leave without pay to care for the newborn. Such requests may be granted within the discretion of the Human Resources Office in consultation with the employee and department manager.
- 15.2.14. Service-Connected Injury or Illness Leave. Employees suffering injuries in the course and scope of their work may be entitled to workers' compensation benefits in accordance with state law. Employees having questions should contact the Human Resources Office.
- 15.2.14.1. Integration of Benefits. If an employee is on leave and is receiving workers' compensation payments, the employee may continue to receive full pay from the City by requesting that the maximum weekly disability benefits be supplemented by the use of sick leave benefits. Under this option, the employee would tender his/her workers' compensation payments to the City and the City would then continue to issue paychecks and deduct the value difference between the workers' compensation payments and the employee's regular pay from the employee's sick leave allotment.
- 15.2.14.2. Fitness for Duty. When an employee seeks to return to work after being on injury or illness leave, the employee must provide medical certification that he/she is physically able to perform the duties of his/her position. The City may require the employee to undergo a fitness for duty examination before returning to work. If the employee is not fit to perform his/her duties, the City may consider placing the employee in another position, seek the employee's retirement or separate the employee in accordance with applicable law.

- 15.2.14.3. **Work Week.** When on service-connected injury or illness leave, the employee's work week shall automatically become Monday through Friday, 8:00 a.m. to 5:00 p.m.
- 15.2.15. **Military Leave.** Military leave shall be granted in accordance with applicable state and federal law. In accordance with Military & Veterans Code section 395.02, employees may be eligible to receive their salary for the first 30 days of military leave. The City may adopt a policy providing pay beyond this 30-day limit. Employees on military leave shall accrue sick leave, vacation leave, holiday privileges and seniority for the first 180 days of military duty, in accordance with state law. After the first 180 days of military duty, employees shall not continue to accrue such benefits unless otherwise expressly provided by City policy.
- 15.2.16. **School Activity Leave.** Employees who are parents, guardians or grandparents of a child in kindergarten through grade 12 may take up to forty (40) hours per year, not exceeding eight (8) hours in a month, to participate in the child's school activities. The employee must use accrued vacation, floating holiday or compensatory time for this leave. Prior notice of the need for this leave must be given to the immediate supervisor.
- 15.2.17. **Voting Time.** Time off with pay to vote in any general, direct primary or presidential primary election shall be granted as provided by state law. Employees must give prior notice to their immediate supervisors of their need to take such time off.
- 15.2.18. **Other Authorized Leaves With Pay.** The City Manager or department manager may authorize employees to take leave with pay for training, conferences or meetings connected with City business. Authorized members of employee organizations may take leave with pay to meet and confer or consult with City representatives, and perform necessary representational functions at times prearranged and approved by their department managers.
- 15.2.19. **Unauthorized Leave of Absence.** Any unauthorized leave of absence by an employee from duty shall be grounds for disciplinary action and/or discharge. When an unauthorized leave of absence is caused by extenuating circumstances, such absence may be approved by the City Manager by a subsequent grant of leave, with or without pay. The subsequent approval is within the discretion of the City Manager. The employee must submit a written request for the retroactive grant of leave and include an adequate explanation of the reason for the leave.

15.3. **Accommodation For Employees With Disabilities**

The City provides employment related reasonable accommodations to qualified individuals with disabilities within the meaning of the California Fair Employment and housing Act and the Americans with Disabilities Act.

- 15.3.1 If an employee believes he or she has a disability, the employee may request a reasonable accommodation for that disability. Such requests should be submitted to the employee's department manager or Human Resources Office.

- 15.3.2 After receipt of reasonable documentation of disability and/or fitness for duty, the City will arrange for a discussion, in person or via telephone, with the applicant or employee, and his or her representative, if any. The purpose of the discussion is to work in good faith to fully consider all potential reasonable accommodations.
- 15.3.3 The City determines, in its sole discretion, whether reasonable accommodations(s) can be made, and the type of accommodations(s) to provide. The City will not provide accommodations(s) that would pose an undue hardship upon City finances or operations, or that would endanger the health or safety of the employee or others. The City will inform the employee of its decision as to reasonable accommodations(s) in writing.

## **Section 16. FAMILY AND MEDICAL LEAVE**

### **16.1. Purpose.**

The City will provide unpaid family and medical care leave for eligible employees in accordance with the requirements of state and federal law. Rights and obligations which are not specifically set forth below are set forth in the regulations implementing the Family and Medical Leave Act ("FMLA") and the California Family Rights Act ("CFRA"). Unless otherwise provided in this article, "Leave" under this article shall mean leave pursuant to FMLA and CFRA.

### **16.2. Eligibility.**

In order to qualify for Family and Medical Leave, the employee must meet the following conditions:

- (1) The employee must have been employed by the City for twelve (12) months.
- (2) The employee must have actually worked at least 1,250 hours during the twelve (12) month period immediately before the date when the leave begins. Any time spent on leave during the 12 month period shall not count towards the 1,250 hours.

### **16.3. Type of Leave Covered.**

Family and Medical Leave is permitted for the following reasons:

- (1) The birth of a child or to care for a newborn , or for placement of a child with an employee in connection with the adoption or foster care of a child.
- (2) Leave to care for a spouse, domestic partner, child or parent who has a serious health condition, or
- (3) Leave due to a serious health condition that makes the employee unable to perform the functions of the employee's position.



- (4) Leave for a “qualifying exigency” may be taken arising out of the fact that an employee’s spouse, son, daughter, or parent is on covered active duty or call to active duty status (under the FMLA only, not the CFRA); or
- (5) Leave to care for a spouse, son, daughter, parent, or “next of kin” who is a covered service member of the United States Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces (this leave can run up to 26 weeks of unpaid leave during a single 12-month period) (under the FMLA only, not the CFRA).

16.4. **Definitions for purposes of this policy:**

- (1) "12-Month Period" means a rolling twelve (12)-month period measured backward from the date leave is taken and continuous with each additional leave day taken.
- (2) Single means a 12-month period which begins on the first day the eligible employee takes FMLA leave to take care of a covered service member and ends 12 months after that date.
- (3) “Child” means a child under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of mental or physical disability. An employee's child is one for whom the employee has actual day-to-day responsibility for care and includes a biological or adopted or foster or step-child.
  - a. A child is "incapable of self-care" if he/she requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living-such as, caring for grooming and hygiene and bathing, dressing and eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, and/or using telephones and directories.
- (4) “Parent” means a biological parent of an employee or an individual who stood in *loco parentis* (in place of the parent) to an employee when the employee was a child. This term does not include parents-in-law.
- (5) “Spouse” means a husband or wife as defined or recognized under California State law for purposes of marriage.
- (6) “Domestic partner” means domestic partner as defined under California Family Code section 297 and 299.2, shall have the same meaning as “Spouse” for purposes of CFRA leave.
- (7) “Serious health condition” means an illness, injury or impairment, or physical or mental condition that involves:

- a. Inpatient care (i.e., overnight stay) in the hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., inability to work, or perform other regular daily activities due to the serious health condition, treatment involved or recovery therefrom); or
- b. Continuing treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one of or more of the following:
  - i. A period of incapacity (i.e., inability to work, or perform other regular daily activities due to serious health condition of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition), that also involves:
    - 1. Treatment two or more times within 30 days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse or physician's assistant under direct supervision by a health care provider, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by, a health care provider. The first in-person treatment visit must take place within seven days of the first day of incapacity; or
    - 2. Treatment by a health care provider on at least one occasion which must take place within seven days of the first day of incapacity and results in a regimen of continuing treatment under the supervision of the health care provider. This includes for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter, and can be initiated without a visit to a health care provider, it does not constitute a regime of continuing treatment.
- c. Any period of incapacity due to pregnancy or for prenatal care. This entitles the employee to FMLA leave, but not CFRA leave. Under California law, an employee disabled due to pregnancy is entitled to pregnancy disability leave up to a maximum of four months. After the birth of the baby, the employee is entitled to additional CFRA bonding leave up to a maximum of twelve (12) weeks. However, regardless of the length of time an employee takes leave for pregnancy disability and newborn care, under the FMLA and CFRA, the City's obligation to pay for health insurance, as explained below, is limited to a maximum of twelve (12) weeks over a twelve-(12) month period.)
- d. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
  - i. Requires periodic visits (defined as at least twice a year) for treatment by a health care provider, or by a nurse or physician assistant under direct supervision of a health care provider;

- ii. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
    - iii. May cause episodic rather than continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.
  - e. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by a health care provider.
  - f. Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.
- (8) “Health Care Provider” means a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of California; an individual duly licensed as a physician, surgeon, or osteopathic physician or surgeon who directly treats or supervises treatment of a serious health condition; podiatrist, dentist, clinical psychologists, optometrists, and chiropractors, (limited to treatment consisting of manual manipulation of the spine to correct a subluxation. as demonstrated by X-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law; nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law; Christian Science practitioners listed with the First Church of Christ, Scientist in Boston and Massachusetts; and any health care provider from whom an employer or group health plan’s benefits manager will accept certification of the existence of a serious health condition to substantiate a claim of benefits
- (9) “Covered active duty” means: (1) in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with Armed Forces to a foreign country, or (2) in the case of a member of a reserve component of the Armed Forces, duty during the deployment of a member of the Armed Forces to a foreign country under a call or order to active duty under certain specified provisions.
- (10) “Covered Service member” means (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness incurred in the line of duty on active duty; or (2) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years

preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

- (11) "Outpatient Status" means, with respect to a covered service member, the status of a member of the Armed Forces assigned to either: (1) a military medical treatment facility as an outpatient; or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.
- (12) "Next of Kin of a Covered Service member" means the nearest blood relative other than the covered service member's spouse, parent, son, or daughter, in the following order of priority: Blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA.
- (13) "Serious Injury or Illness" (1) in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; or (2) in the case of a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy, means a qualifying injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

16.5. **Amount of Leave**

- 16.5.1. Eligible employees are entitled to a total of twelve (12) workweeks (or 26 weeks to care for a covered service member) of leave during a twelve (12) month period. Where FMLA leave qualifies as both military caregiver leave and care for a family member with a serious health conditions, the leave will be designated as military caregiver leave first. Twelve (12) weeks means the equivalent of twelve (12) of the employee's normally scheduled work weeks. For eligible employees who work more or less than five (5) days a week or who work alternative work schedules, the number of working days that constitute twelve (12) weeks is calculated on a pro rata or proportional basis.
- 16.5.2. Minimum Duration of Leave. If leave is requested for the birth, adoption or foster care placement of a child of the employee, basic leave must be concluded within the first year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave

for one of these purposes (e.g. bonding with a newborn) for at least one day, but less than two weeks duration on any two occasions.

If leave is requested to care for a child, parent, spouse or the employee him/herself with a serious health condition, there is no minimum amount of leave that must be taken. However, the notice and medical certification provisions of this policy must be complied with.

- 16.5.3. Spouses Both Employed by the City. In any case in which a husband and wife are both employed by the City and are both entitled to leave, the combined number of workweeks of leave to which both may be entitled may be limited to twelve (12) workweeks during a twelve (12) month period if leave is taken for the birth or placement for adoption or foster care of the employee's child (i.e., bonding leave.) This limitation does not apply to any other type of leave under this policy.

In any case in which a husband and wife both employed by the City are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 26 workweeks during any 12-month period if leave is taken to care for a covered service member.

16.6. **Intermittent Leave or Leave on a Reduced Work Schedule**

If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule. The leave may not exceed a total of twelve (12) weeks over a twelve (12) month period.

16.7. **Substitution of Paid Accrued Leaves**

- 16.7.1. Leave under this policy is unpaid. If an employee is on an unpaid FMLA/CFRA leave, he or she is required to use his or her accrued sick leave or vacation leave concurrently with FMLA/CFRA leave. Employees must use accrued sick leave concurrently with the leave if the leave is for Pregnancy Disability or the employee's own serious health condition. .

- 16.7.2. If an employee is on a paid leave such as Workers Compensation, disability, Paid Family Leave, etc., employees may elect to use vacation, accrued sick leave and/or accumulated compensatory time to substitute for all or part of the otherwise unpaid leave under this policy. However, the City shall not require peace officers or firefighters to use Labor Code section 4850 leave concurrently with Family and Medical Leave.

- 16.7.3. If an employee takes a leave of absence for any reason which is FMLA/CFRA qualifying, the City may designate that lave as running concurrently with the employee's 12-week FMLA/CFRA leave entitlement, provided the City will notify the employee at the time of the designation, and the designation will not be made retroactively except as provided by law.

16.8. **Payment of Health Insurance Premiums While on Leave**

- 16.8.1. While an employee is on Family and Medical Leave and Pregnancy Disability Leave, the City shall maintain the employee's health insurance coverage on the same conditions as if the employee has been continuously employed during the entire leave period. If the employee's FMLA leave is unpaid, the City shall maintain the employee's health coverage for a maximum of twelve (12) weeks in a twelve-month period. If the employee's PDL is unpaid, the City shall maintain the employee's health coverage for a maximum of four months over the course of a 12 month period, beginning on the date of pregnancy disability leave begins.
- 16.8.2. In the event the an employee is disabled by pregnancy and also uses leave under the CFRA, the City will maintain the employee's health benefits while the employee is disabled by pregnancy (up to four months or 17 weeks) and during the employee's CFRA leave (up to 12 weeks).
- 16.8.3. If the employee would normally pay health insurance premiums, the City shall require payment from the employee while the employee is on leave.
- 16.8.4. Employees will not continue to be covered under the City's long-term disability and other non-health benefit plans unless employees make the appropriate contributions for continued coverage and said continued coverage is permitted by the particular plan(s).
- 16.8.5. An employee must return to work for a continuous period of at least one (1) month, otherwise they will not be classified as having returned to work. The City may recover its share of the health care premiums paid on behalf of the employee while the employee was on the leave. See Section 16.17

16.9. **Medical Certification**

- 16.9.1. Employees who request leave for their own serious health condition, or to care for a child, parent, or spouse or domestic partner who has a serious health condition, must provide written certification from a health care provider of the individual requiring care.
- 16.9.2. If the leave is requested because of the employee's own serious health condition, the certification must include a statement that the employee is unable to work at all or is unable to perform the essential functions of his/her position. In cases where employees request intermittent leave, employees must submit medical certification which states that such intermittent leave is needed due to the employee's serious health condition.
- 16.9.3. Employees who request leave to care for a covered service member who is a child, spouse, parent, or "next of kin" of the employee must provide written certification from a health care provider regarding the injured service member's serious injury or illness. The first time an employee requests leave because of a qualifying exigency, the City may require the employee to provide a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or call to active duty status in support of a contingency operation, and the dates of

the covered military member's active duty service. A copy of new active duty orders or similar documentation shall be provided to the City if the need for leave because of a qualifying exigency arises out of a different active duty or call to active duty status of the same or a different covered military member.

16.10. **Time to Provide a Certification.**

16.10.1. When an employee's leave is foreseeable, the employee must provide the medical certification within thirty (30) days before the leave begins. When this is not possible, the employee must provide the requested certification within the time frame requested by the City.

16.10.2. Consequences for Failure to Provide an Adequate or Timely Certification. If an employee fails to provide a medical certification with the timeframe established in 16.10.1, the City may delay the taking of FMLA/CFRA leave until the required certification is provided. If an employee provides an incomplete medical certification the employee will be given a reasonable opportunity to cure any such deficiency. If the City does not receive an adequately completed medical certification in a timely manner, the City may deny the request for FMLA

16.10.3. Second and Third Medical Opinions

If the City has reason to doubt the validity of a certification, the City may require a medical opinion of a second health care provider chosen and paid for by the City. If the second opinion is different from the first, the City may require the opinion of a third provider jointly approved by the City and the employee, but paid for by the City. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when there is a second or third medical opinion sought.

16.11. **Recertification**

16.11.1. If the City has reason to doubt the validity of a medical certification provided by an employee, the City may require a medical opinion of a second health care provider chosen and paid for by the City. If the second opinion is different from the first, the City may require the opinion of a third provider jointly approved by the City and the employee, but paid for by the City. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when there is recertification.

16.11.2. Recertification may be requested under the following conditions:

- (1) When the basis for FMLA request has changed;
- (2) When the employee requests an extension of leave; or
- (3) At reasonable intervals requested by the City, but not to be more than every thirty (30) days, unless one of the aforementioned criteria also applies.

16.12. **Procedures for Requesting Leave.**

All employees requesting leave under this policy must submit proper Family and Medical Leave forms to the Human Resources Office. Although the City recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. If leave is foreseeable, at least thirty (30) days notice is required. In addition, if any employee knows that he/she will need a leave in the future, but does not know the exact date(s) (e.g., for the birth of a child or to take care of a newborn), the employee shall inform his/her supervisor as soon as possible that such leave is needed. Such notice must be submitted in writing. If the City determines the notice of the employee is inadequate or the employee knew about the requested leave in advance of the request, the City may delay the granting of the leave until it can, in its discretion, adequately cover the position with a substitute.

16.13. **Accrual of Benefits While on Leave.**

Employees will not accrue benefits while in an unpaid leave status, including seniority rights, vacation and sick leave accrual.

16.14. **Reinstatement Upon Return From Leave**

16.14.1. Right to Reinstatement. Upon the expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. Employees have no greater rights to reinstatement, benefits and other conditions of employment than if the employee had been continuously employed during the Family and Medical Leave period.

If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and City the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of his/her readiness to return.

16.15. **Employee's Obligation to Periodically Report on His/Her Condition**

Employees may be required to periodically report on their status and intent to return to work. This will avoid any delays in reinstatement when the employee is ready to return.

16.16. **Fitness for Duty Certification**

As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, which made the employee unable to perform his/her job, the employee must obtain and present a fitness-for-duty certification from the health care provider that the employee is able to resume work. Failure to provide such certification may result in denial of reinstatement.



16.17. **Failure to Return From Leave.**

If an employee uses Family and Medical Leave and fails to return to work for the City, for a continuous period of at least one (1) month, the City may recover its share of health care premiums paid on behalf of the employee while the employee was on leave. The City reserves the right to seek reimbursement from the employee by any legal means.

16.18. **Reinstatement of “Key Employees”**

The City may deny reinstatement to a “key” employee (i.e., an employee who is among the highest paid 10 percent of all employed by the City within 75 miles of the work site) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the City, and the employee is notified of the City intent to deny reinstatement on such basis at the time the employer determines that such injury would occur.

**Section 17. PAID FAMILY LEAVE**

17.1. **Eligibility.**

17.1.1. Employees who are covered by State Disability Insurance (SDI) are eligible for Family Temporary Disability Insurance (FTDI) benefits while taking care of family member(s). These benefits are paid by the State Employment Development Department. There is no requirement that the employee have worked for the City any particular length of time before being entitled to this leave. However, no employee can receive more FTDI benefits than he or she earned in wages during the base period for calculating benefits. Employees are not eligible if they are receiving State Disability Insurance (SDI), workers’ compensation or private insurance payments in lieu of such payments.

17.1.2. Employees are eligible for this leave under the following circumstances:

- (1) For the birth and care of a newborn child, or the placement and initial care of an adopted or foster care child, or
- (2) To care for an employee’s spouse, child, parent or registered domestic partner with a serious health condition. However, an employee is not eligible to receive FTDI benefits for any day that another family member is able and available for the same period of time that the employee is providing care.

17.1.3. Definitions of all applicable terms will be in accordance with state law relating to Family Temporary Disability Insurance (California Unemployment Insurance Code section 3300 et seq.).

17.2. **Request for Leave**

Requests for paid family leave must be approved in advance by the employee’s supervisor and Human Resources Office. Since the need for the family leave is included within the need for Family Care and Medical Leave, the same

procedures for making requests for Family Care and Medical Leave and scheduling of leave shall apply to requests for Paid Family Leave. As with Family Care and Medical Leave, the employee must submit medical certification to the City to justify the request for such leave.

17.3. **Duration of Paid Family Leave**

According to law, employees are entitled to a maximum of six (6) weeks paid family leave in a twelve-(12) month period. Such leave runs concurrently with Family and Medical Leave. An employee is not entitled to more than a maximum of twelve (12) weeks leave in a twelve (12) month period to care for a family member.

17.4. **Compensation During Leave**

According to law, employees are entitled to be paid FTDI benefits while on family leave, replacing approximately fifty-five percent (55%) of an employee's wages. Payment for these benefits is funded through employee contributions to SDI. The employee is solely responsible to apply for this compensation from the State Employment Development Department (EDD). The City has no obligation to ensure that employees receive FTDI payments.

17.5. **Integration of Benefits**

If an employee is on Paid Family Leave and is receiving FTDI benefits, the employee may continue to receive full pay from the City by requesting that the maximum weekly FTDI benefits be supplemented by the use of accrued paid leave benefits. Under this option, the employee would tender his/her FTDI payments to the City and the City would then continue to issue paychecks and deduct the value difference between the FTDI payments and the employee's regular pay from the employee's sick leave allotment.

17.6. **Waiting Period and Use of Vacation**

The law requires that there be a seven (7) day "waiting period" before an employee on family leave may begin receiving FTDI payments. If available, employees must use two (2) weeks of earned and unused vacation before receiving FTDI benefits. The first week of vacation shall count as the "waiting period" before the employee may begin receiving FTDI payments.

**Section 18. CATASTROPHIC LEAVE PROGRAM**

18.1. **Policy**

This policy is designed to assist regular employees who have exhausted all forms of paid leave due to a serious, catastrophic illness or injury. The Catastrophic Leave Program allows other City employees to voluntarily donate sick leave to an employee who meets the eligibility requirements so that the recipient will be able to remain on a paid status for a longer period of time, or until the employee is receiving short or long term disability.

Donation and use of catastrophic leave is at the discretion and requires the approval of the City Manager or his or her designee.

18.2. **Eligibility for Personal Catastrophic Leave**

18.2.1. The employee must meet the following requirements to be eligible for leave under this policy:

- (1) The employee must have passed probation, be in a regular position with the City for at least eighteen (18) full months, and be considered actively employed by the City.
- (2) The employee must have a verifiable serious or catastrophic illness or injury which requires an extended period of treatment or recuperation. Serious or catastrophic illness or injury is one in which the employee is incapacitated and unable to work as certified by his/her physician for at least four (4) full workweeks. In addition, the employee must provide medical certification that includes a reasonable expectation that, with proper care and rehabilitation, the employee will be able to return to full duty within six (6) months of the absence from work.
- (3) The employee must have exhausted all paid leave balances.
- (4) The employee may not be concurrently receiving short or long-term disability or similar benefit.

18.3. **Conditions for Donating Leave.**

18.3.1. The following are the conditions for donating leave:

- (1) To be eligible to donate leave, an employee must have passed probation and be in a regular position with the City for at least eighteen (18) full months.
- (2) All donations of leave are voluntary. No employee shall be required to donate leave.
- (3) Accrued sick leave is the only type of leave allowed for donation and shall be donated on the basis of 1 hour received for each hour donated. If an employee wishes to donate sick leave, the employee must retain a minimum balance of eighty (80) sick leave hours after donating.
- (4) Employees must donate a minimum of four (4) hours and a maximum of ten (10) hours per pay period.
- (5) A donating employee may donate a maximum of 80 hours total to a recipient employee per catastrophic event. Recipient employees may receive a maximum of 160 donated hours per catastrophic event.

- (6) Donated leave will be credited to the receiving employee's sick leave balance on an hour-for-hour basis and shall be paid at the rate of pay of the receiving employee.
- (7) Once the leave is donated and posted to the receiving employee, the employee donating such leave shall irrevocably lose all rights and privileges to the donated leave hours.

18.4. **Procedures For Donating and Receiving Leave**

18.4.1. For donating employees:

- (1) A donating employee shall complete the donation form and submit it to the Human Resources Office.
- (2) The Human Resources Office will review the request and forward to the City Manager for approval.
- (3) After approval by the City Manager, the Human Resources Office will submit the donation request to payroll for processing.
- (4) Donated leave will be used only as needed.
- (5) Donated leave will be credited to the receiving employee from the donating employee in chronological order by the date approved by the City Manager.

18.4.2. For receiving employees:

- (1) Once the receiving employee's own paid leave balances have been exhausted consistent with this policy, the employee may collect donated leave.
- (2) The receiving employee must be eligible for leave (meeting the requirements of Section 18.2.1 above) and willing to receive the donated leave.
- (3) The medical reasons for the need for the donated leave will only be disclosed to City employees if the employee agrees to such disclosure, either verbally or in writing.
- (4) The receiving employee will continue to be provided City-provided health and welfare benefits consistent with the City's Family and Medical Leave Policy.
- (5) All donated hours must be used on a continuous and uninterrupted basis until the earliest of the following occurs:
  - a. All donated leave balances are exhausted; or
  - b. The employee returns to work; or

- c. The employee begins receiving long-term disability benefits; or
- d. The employee's employment terminates.

## **Section 19. LAYOFF AND RECALL POLICY**

- 19.1. Whenever, in the sole judgment of the City Council, it becomes necessary to abolish any position due to a reorganization, lack of work or funds, or abandonment of activities, the employee holding said position may be laid off or demoted without the right of appeal. Whenever possible, employees will be given at least thirty (30) days notice of any layoff or demotion.
- 19.2. Order of Layoff.
  - 19.2.1. When a position has been abolished, any seasonal, emergency, probationary or temporary employee in that position classification shall be laid off first.
  - 19.2.2. The order of layoff of full-time regular employees shall be determined based on seniority and the employee's overall performance as a City employee. Any full-time regular employee who holds a position which will be abolished shall first be considered for reassignment to an existing vacancy in a lower or equal class, provided the employee is qualified for the vacant position and such vacancy exists. If reassignment is not feasible, and the layoff involves a position classification held by more than one person, layoffs will be made based on the following criteria. Selection for retention shall be based equally upon performance as determined and supported in writing by each supervisory level involved and upon seniority of service. Therefore, this policy does not preclude the retention of employees who have less seniority in the position classification which is the subject of reduction in force action. Seniority will be determined by including all periods of full time regular service at or above the classification level where the layoff is to occur.
  - 19.2.3. The following criteria shall be considered in evaluating performance:
    - (1) The employee's last four (4) written performance evaluations, if in existence.
    - (2) The history of an employee's written disciplinary actions during the last three (3) years.
    - (3) The employee's written record of attendance including patterns of sick leave usage, tardiness and unexcused absences during the last three (3) years.
    - (4) If there are no performance evaluations, dated within the last year, the employee's current and past supervisors' evaluation of the employee's performance.
- 19.3. Re-employment List. Full-time regular employees who are laid off will have their names kept on a re-employment list for one (1) year from the date of layoff. Names shall be placed on the re-employment list in order of date of layoff. The

re-employment list will be used by the City when a vacancy arises in the same or lower classification of position in the department where the layoff originally occurred. The City shall use this list before any other eligible list and before seeking general applications from others. The City, in its discretion, may extend the active period of the re-employment list.

19.4. This policy does not apply to at-will employees.

## **Section 20. DISCIPLINE / GENERAL RULES OF CONDUCT**

### **20.1. General Rules of Conduct**

It is expected that all employees shall render the best possible service and reflect credit on the City. Therefore, the highest standards of professional conduct are essential and expected of all employees.

### **20.2. Disciplinary Actions**

20.2.1. The City may invoke the following types of disciplinary actions:

- (1) Oral Reprimand;
- (2) Written Reprimand;
- (3) Suspension Without Pay;
- (4) Reduction in Pay;
- (5) Demotion;
- (6) Disciplinary Probation; and
- (7) Discharge/Termination

20.2.2. Employees who are FLSA-exempt shall not be subject to disciplinary action that results in loss of pay unless the discipline reduces the salary in full work-week increments only.

20.2.3. Removal of a Written Reprimand from Personnel Records: At the request of the employee, records of written reprimand shall be removed from the employee's personnel file two (2) years after the date of the written reprimand, provided that the employee has received a satisfactory performance review for the subsequent two (2) years period from the date of the written reprimand and no further discipline (related or unrelated to the reprimand) has been initiated

### **20.3. Grounds for Discipline**

20.3.1. Any employee holding a regular appointment in the Classified Service may be disciplined for good cause. City employees who are employed "at-will," or who are seasonal, temporary or probationary, are not subject to the requirement of good cause, and are not entitled to pre-discipline procedures or appeals. Such employees may be disciplined without reference to these provisions.

20.3.2. Good cause exists, not only when there has been an improper act or omission by an employee in the employee's official capacity, but when any conduct by an employee brings discredit to the City, affects the employee's ability to perform his or her duties, causes other employees not to be able to perform their duties, or involves any improper use of their position for personal advantage or the advantage of others. The type of disciplinary action shall depend on the seriousness of the offense and the relevant employment history of the employee. Causes for disciplinary action against an employee may include, but shall not be limited to, the following:

- (1) Misstatements or omissions of fact in completion of the employment application or to secure appointment to a position with the City;
- (2) Furnishing knowingly false information in the course of the employee's duties and responsibilities;
- (3) Inefficiency, incompetence, carelessness or negligence in the performance of duties;
- (4) Violation of safety rules;
- (5) Violation of any of the provisions of these personnel rules and regulations, department rules and regulations, City policies, ordinances or resolutions;
- (6) Inattention to duty;
- (7) Tardiness or overstaying lunch periods;
- (8) Excessive use of sick leave or use of sick leave that indicates an abuse of leave time (i.e. consistent use of leave on a Monday and Friday);
- (9) Being under the influence of an intoxicating beverage or non-prescription drug, or prescription drugs not authorized by the employee's physician, while on duty or on City property;
- (10) Disobedience to proper authority, refusal or failure to perform assigned work, to comply with a lawful order, or to accept a reasonable and proper assignment from an authorized supervisor;
- (11) Any violation of the City's Nondiscrimination Policy;
- (12) Unauthorized soliciting on City property;
- (13) Unauthorized absence without leave; failure to report after leave of absence has expired or after a requested leave of absence has been disapproved, revoked or canceled; or any other unauthorized absence from work;
- (14) Conviction of a felony, or a misdemeanor involving moral turpitude, or a violation of a federal, state or local law which negatively impacts the

employee's ability to effectively perform his/her job or brings discredit to the City. (For purposes of this section, a misdemeanor conviction does not include a conviction based on a plea of *nolo contendere*);

- (15) Discourteous or offensive treatment of the public or other employees;
- (16) Falsifying any City document or record;
- (17) Misuse of City property; improper or unauthorized use of City equipment or supplies; damage to or negligence in the care and handling of City property;
- (18) Fighting, assault and/or battery;
- (19) Theft or sabotage of City property;
- (20) Sleeping on the job, except as specifically authorized for twenty-four (24) hour duty personnel;
- (21) Accepting bribes or kickbacks;
- (22) Engaging in outside employment which conflicts with an employee's responsibilities;
- (23) Intimidation or interference with the rights of any employee;
- (24) Outside work or any other activity or conduct which creates a conflict of interest with City work, which causes discredit to the City, negatively impacts the effective performance of City functions or is not compatible with good public service or interests of the City service;
- (25) Abusive or intemperate language toward or in the presence of others in the workplace;
- (26) Failure to obtain and/or maintain minimum qualifications for a position, including required licenses or certificates;
- (27) Any other conduct of equal gravity to the reasons enumerated above as determined by the City.

#### 20.4. **Authority to Discipline**

Any authorized supervisory employee may institute disciplinary action for cause against an employee under his/her supervision in accordance with the procedures outlined in these Rules.

#### 20.5. **Procedures for Disciplinary Actions**

In the absence of a process in a MOU, employees covered by this policy shall be governed by the following provisions:

##### 20.5.1. Oral and Written Reprimand



- 20.5.1.1. In the case oral or written reprimand, the employee may respond by submitting a written rebuttal to be filed in the employee's personnel file. No oral response or appeal shall be permitted.
- 20.5.2. Notice of Intent to Discipline
  - 20.5.2.1. For discipline greater in severity than an oral or written reprimand, the responsible Department Manager shall issue a written Notice of Intent to Discipline, describing the intended discipline, the basis for the discipline, and attaching any documents upon which the discipline is based. The Notice of Intent to Discipline shall state that the employee has a right to respond, either orally or in writing, before discipline is imposed.
- 20.5.3. Discipline in Severity of Five Working Days or Less
  - 20.5.3.1. The responsible Department Manager shall set the pre-discipline meeting approximately one (1) week from the date of the Notice of Intent to Discipline, unless a different time and date is set by mutual agreement. The employee shall be entitled to a representative of his/her choice; provided, however, that the inability of a particular representative to attend the meeting shall not be a cause requiring a postponement of the meeting. At the meeting, the employee shall be provided the opportunity to respond to the charges and to present any new information for consideration by the Department Manager. Following the informal meeting, the responsible Department Manager shall provide the City Manager with a report of the pre-disciplinary meeting including a recommendation of discipline.
  - 20.5.3.2. At some reasonable time after the employee has been provided an opportunity to respond to the charges, the City Manager shall issue a final notice of discipline. The notice shall include the final disposition, the effective date of the discipline and the facts upon which the discipline is based. No further appeal shall be permitted.
  - 20.5.3.3. If the employee chooses to respond in writing rather than attend the pre-discipline meeting, the written response shall be reviewed and filed in the employee's personnel file. No further appeal shall be permitted.
- 20.5.4. Discipline in Severity of More than Five Working Days
  - 20.5.4.1. For discipline that is greater in severity than a suspension of five (5) working days, a reduction in pay of five (5) working days or other more severe form of discipline as enumerated in Section 20.2.1, the City shall issue a Notice of Intent to Discipline, describing the intended discipline, the basis for the discipline and attaching any documents upon which the discipline is based. The Notice of Intent to Discipline shall state that the employee has a right to respond, either orally or in writing, before discipline is imposed. The City shall set the pre-discipline meeting approximately one (1) week from the date of the notice, unless a different time and date is set by mutual agreement.
  - 20.5.4.2. For discipline that is greater in severity than a suspension of five (5) working days, the City Manager shall designate a City official who is uninvolved in the

matter who shall convene a meeting to review the employee's response and position before imposing discipline. The employee shall be entitled to a representative of his/her choice; provided, however, that the inability of a particular representative to attend the meeting shall not be a cause requiring a continuance of the meeting. At the meeting, the employee shall be provided the opportunity to respond to the charges and to present any new information for consideration by the City.

- 20.5.4.3. At some reasonable time after the employee has been provided an opportunity to respond to the charges, the City shall issue a final notice of discipline. The notice shall include the final decision, the effective date of the discipline and the facts upon which the discipline is based.

20.6. **Appeal of Disciplinary Action**

- 20.6.1. For a suspension in severity of more than five (5) working days, a reduction in pay of five (5) working days or other more severe form of discipline as enumerated in Section 20.2.1, employees shall have the right to appeal from the final notice of discipline. The notice of appeal must be received within seven (7) calendar days from the date of the final notice of discipline, or the right to proceed to the next appeal level under these Rules shall be forfeited and the discipline shall become final.

- 20.6.2. The appeal shall be heard by an independent hearing officer to be selected by the City.

- 20.6.3. The costs of the hearing officer shall be borne by the City. Either party may request that the matter be transcribed, and the requesting party shall bear the expense of the transcript and court reporter's fees. If the transcript is jointly requested by both parties, both parties will share equally in the expense of the transcript and court reporter's fees.

- 20.6.4. The hearing officer shall have the authority to convene the hearing, receive evidence through testimony and documents and to make findings of fact and conclusions about the discipline. Within two (2) months of the close of the hearing, the hearing officer shall serve a recommended decision on the City Manager and the employee. The hearing officer's decisions must contain detailed findings of fact relating to the disciplinary charges. The decision may include a recommendation regarding outcome, but the final decision regarding discipline rests with the City Manager. After consideration of the hearing officer's recommended decision, the City Manager shall issue a final decision in writing. The City Manager's decision is reviewable by administrative writ of mandamus within the timeframes established by law.

**Section 21. APPEAL PROCEDURE FOR NON-DISCIPLINARY GRIEVANCES**

- 21.1. This appeal procedure is intended to provide an avenue only for redress of complaints that the City has violated these Rules. Exhaustion of this appeal procedure is intended to provide an informal avenue for redress of complaints relating to these Rules, and to give the City an opportunity to investigate the complaint and correct any problems before they become more serious.

However, this appeal procedure may not be used for any of the following: to appeal discipline, change wages, hours or working conditions; to challenge the content of employee evaluations; or to challenge a reclassification, layoff, transfer, denial of reinstatement or denial of salary increase.

- 21.2. Only regular employees in the Classified Service who have completed probation have access to this entire appeal procedure. At will and provisional employees do not have access to this procedure. Part time, seasonal and temporary employees may utilize this procedure up to the Human Resources Director/City Manager level only. The Human Resources Director/City Manager's decision regarding the grievance shall be final and binding.
- 21.3. Every effort should be made to resolve a grievance regarding these Rules at the point the grievance arises, through informal discussion between the grievant and his/her supervisor.
- 21.4. If the grievant is not satisfied with resolution of the matter after speaking with his/her supervisor, the grievant may present a formal written grievance to the Human Resources Office. The written grievance must be presented within fifteen (15) calendar days of the facts giving rise to the appeal. However, this time limit may be waived if agreed to by the City. The Human Resources Director/City Manager may, in his or her discretion, submit the grievance for response as the first step to a directly involved supervisor or other department representative.
- 21.5. Grievance appeals must be in writing, signed by the affected employee(s) and allege that the City has violated a specific provision of these Rules. Appeals must contain the specific facts upon which they are based. Appeals that fail to include these elements may be rejected on that basis.
- 21.6. The City Manager, or designee, will review the appeal and shall serve notice of a written response within fifteen (15) calendar days of receipt of the appeal.
- 21.7. If the appellant is dissatisfied with the City's first response, the appellant may submit a written appeal to the City Manager. The appeal must be received by the City Manager within fifteen (15) calendar days of the Human Resource Office's response.
- 21.8. The City Manager, or the Manager's designee, will review the appeal and shall serve notice of a written response within fifteen (15) calendar days of receipt of the appeal. The City Manager's decision shall be final.
- 21.9. No other grievance or appeal procedure may be used for matters within the scope of this appeal procedure.
- 21.10. The City shall not take any adverse employment action against an employee because the employee filed a grievance regarding alleged violation of these Rules.

## **Section 22. PART TIME SEASONAL AND TEMPORARY EMPLOYEES**

- 22.1. Part-time, seasonal and temporary employees are employed on an at-will basis and may be terminated at any time with or without cause and without right of appeal.
- 22.2. All part time, seasonal and temporary employees shall be compensated on a straight hourly basis for the actual number of hours worked. The rate of pay shall be determined by the City Manager within the salary range then in effect, specified for the position occupied by the employee.
- 22.3. No seasonal or temporary employee shall be eligible for participation in any benefit program established by the City, except as required by state and/or federal law. Part time employees who do not work for the City on a temporary basis and who work more than twenty-one (21) hours per week on average shall be entitled to the same benefits enjoyed by regular full time employees based upon a proration of average hours worked. EXAMPLE: An employee who works an average of thirty (30) hours per week shall receive holiday compensation in an amount equal to three (3)-quarters of the benefit provided to regular full time employees. Holiday, vacation, sick leave, city payment of health premiums and other similar benefits shall be prorated on this same basis.
- 22.4. Part time, seasonal and temporary employees shall work on a schedule determined by the City. Part time, seasonal and temporary positions may be abolished and/or replaced with full time positions as determined by the City.
- 22.5. No part time, seasonal or temporary employee shall be eligible for a salary adjustment except as approved by the City Manager upon the recommendation of the department manager, based on the employee's performance evaluation. Performance evaluations of such employees may be completed in accordance with the procedure set forth for full time employees, except for seasonal employees who may be presented with a performance appraisal report shortly after the completion of the season for which they are appointed. In general, no part time, seasonal or temporary employee shall be eligible for a salary adjustment except upon the satisfactory completion of one of the following conditions: (a) Completion of one thousand (1,000) hours of service from date of appointment or previous review and a minimum of one (1) year service; or (b) completion of a minimum of three hundred (300) hours of continuous service on a seasonal basis and the elapse of one (1) year from the date of appointment or previous review. However, the City may make salary adjustments at an earlier date if circumstances warrant such adjustment.
- 22.6. An employee serving in a temporary or seasonal appointment shall serve the City only for such time-limited period as is determined by the City. However, if an employee serving in such appointment works more time or is retained in excess of this time period, the employee does not acquire regular status.

### **Section 23. PERSONNEL FILES**

- 23.1. The City shall maintain an official personnel file for each of its employees. Personnel files contain such personnel records as may be deemed necessary for the administration of human resources in the City.
- 23.2. Personnel files shall be made available for inspection by employees within a reasonable time after an employee's written request and without loss of pay, provided that employees must make arrangements with their supervisor if the inspection occurs on duty. Upon written request, employees may obtain copies of the materials subject to inspection at the employee's expense. The City may preclude inspection of certain information in accordance with the law, such as background and other pre-employment information, and materials relating to confidential investigations.
- 23.3. The City maintains injury reports and confidential medical records in separate files.
- 23.4. The City shall designate the area used for the inspection and shall have an official monitor the employee's inspection of the employee's personnel file while it is being reviewed. Under no circumstances shall the employee remove the personnel file or any of its contents from the area designated for the inspection.

### **Section 24. RESIGNATIONS AND EXIT INTERVIEWS**

- 24.1. Employees are free to resign from their employment, but are encouraged to give at least two (2) weeks notice. A resignation becomes effective upon the City's receipt of a written notice of resignation. If no written resignation is tendered, but a resignation is indicated orally, a resignation becomes effective upon the City's notice of acceptance of the resignation. Once a resignation becomes effective, it is irrevocable except that the City Manager may, in his/her discretion, permit a resignation to be rescinded.
- 24.2. Automatic Resignation. Employees are deemed to have resigned when absent from work for three (3) consecutive workdays without prior authorization. The City shall give notice of such automatic resignation. Except for at-will or probationary employees, regular employees who are separated from the City's service by automatic resignation may utilize the appeal procedure in Section 21 of these Rules.
- 24.3. Exit Interviews. The City may, in its discretion, require employees separating from City employment to undergo an exit interview with the Human Resources Office.

## **Section 25. HARASSMENT, DISCRIMINATION AND RETALIATION PREVENTION POLICY**

- 25.1. The purpose of this policy is:
- (1) To reaffirm the City's commitment to prohibit and prevent unlawful discrimination, harassment, and retaliation in employment;
  - (2) To define discrimination and harassment prohibited under this policy;
  - (3) To set forth a procedure for resolving complaints of prohibited discrimination and harassment.
- 25.2. This policy shall not be construed to create a private or independent right of action. Although this policy is intended to prohibit discrimination consistently with Title VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act, the California Fair Employment and Housing Act and California Labor Code Section 1102.1, the City reserves the right to interpret and apply this policy to provide greater protection than what is afforded under those laws.
- 25.3. Statement of Policy. The City is committed to providing an environment that is free from harassment and discrimination of any kind, including sexual harassment and harassment based on race, color, religion, color, sex (including gender, gender identity, gender expression, transgender, pregnancy and breastfeeding), national origin, ancestry, citizenship status, physical or mental disability, medical condition, genetic characteristics or information, marital status, age, sexual orientation (including homosexuality, bisexuality, or heterosexuality), or any other basis protected by law. The City will afford equal employment opportunity to all qualified employees and applicants as to all terms and conditions of employment, including compensation, hiring, training, promotion, transfer, discipline and termination. Employees, applicants, officers, officials or contractors who believe that they have experienced any form of employment discrimination are encouraged to report this immediately, using the complaint procedures provided in Section 25.8 of these Personnel Rules and Regulations. Therefore, it is important that the City maintain an atmosphere characterized by mutual respect in order to assure fair, courteous treatment for employees and the public.
- 25.4. The City strongly disapproves of and will not tolerate any conduct that violates this policy. Conduct need not arise to the level of violation of law to violate this policy. Harassment or discrimination against employees, unpaid interns, volunteers or applicants by elected or appointed officials, coworkers, members of the public, or contractors on the basis of a protected classification will not be tolerated..
- 25.5. Employees who violate this policy and engage in acts of sexual harassment or illegal discrimination of any type, for any duration, shall be subject to severe disciplinary action, up to and including termination.
- 25.6. Retaliation against individuals who complain of sexual harassment or any type of prohibited discrimination or who participate in an investigation into sexual

harassment or discrimination shall not be tolerated. Employees who engage in such acts of retaliation shall be subject to serious disciplinary action, up to and including termination.

## 25.7. Definitions

(1) **Protected Classification:** This policy prohibits harassment or discrimination because of an individual's protected classification. "Protected Classification" includes race, color, religion, color, sex (including gender, gender identity, gender expression, transgender, pregnancy and breastfeeding), national origin, ancestry, citizenship status, physical or mental disability, medical condition, genetic characteristics or information, marital status, age, sexual orientation (including homosexuality, bisexuality, or heterosexuality), or any other basis protected by law.

(2) Harassment may include, but is not limited to the following types of behavior that is taken because of a person's protected classification.

Speech: Such as epithets, derogatory comments or slurs, and lewd propositions on the basis of protected classification. This includes, without limitation, comments regarding an individual's appearance, including dress or physical features, or dress consistent with gender identification, , or race or ethnicity-oriented stories and jokes.

Physical Acts: Such as assault, impeding or blocking movement, offensive touching, or physical interference with normal work or movement. This includes pinching, grabbing, patting, propositioning, leering, or making explicit or implied threats or promises in return for submission to physical acts.

Visual Insult: Such as derogatory pictures, posters, cartoons, or drawings related to a protected classification. This includes, without limitation, sending inappropriate emails to employees, or viewing pornography either in magazines or on the internet in view of other employees, displaying pictures or objects depicting nude or scantily-clad or suggestively posed men or women; circulating derogatory or obscene notes, letters, emails or other literature.

(3) Unwanted sexual advances: Requests for sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive working environment.

25.7.1. Harassment on the basis of a protected classification is prohibited. Verbal or physical conduct relating to these categories constitutes harassment when it:

- (1) Has the purpose or effect of creating an intimidating, hostile or offensive working environment;
- (2) Has the purpose or effect of unreasonably interfering with an individual's work performance; or
- (3) Otherwise adversely affects an individual's employment opportunities.

25.7.2. Retaliation: Any adverse conduct taken because an applicant, employee, or contractor has reported harassment or discrimination, or has participated in the complaint and investigation process described herein, is prohibited. Adverse conduct includes but is not limited to: taking sides because an individual has reported harassment or discrimination, spreading rumors about a complaint, shunning and avoiding an individual who reports harassment or discrimination, or real or implied threats of intimidation to prevent an individual from reporting harassment or discrimination. The following individuals are protected from retaliation: those who make good faith reports of harassment or discrimination, and those who associate with an individual who is involved in reporting harassment or discrimination or who participates in the complaint or investigation process.

25.8. Reporting Unlawful Harassment or Discrimination.

25.8.1. Any employee, job applicant, or contractor who believes he or she has been unlawfully harassed or discriminated against should promptly report it orally or in writing to: the employee's supervisor, the Human Resources Office or the City Manager. There is no need to follow the chain of command.

25.8.2. Any supervisor or manager who receives a complaint, or who observes or otherwise learns about harassing conduct, as defined by this policy, is required to notify the Human Resources Office immediately. Failure to do so may result in disciplinary action.

25.9. Remedial Action

25.9.1. Upon receiving complaints of discrimination or harassment, the City will take immediate and appropriate corrective action, which may include an investigation of the complaints. Any investigation and investigation report prepared relating to the complaint shall be kept confidential except as required by law. If harassment or discrimination is found to have occurred in violation of this policy, the City shall report a summary of the determination as to whether harassment occurred to appropriate persons, including the complainant, the alleged harasser, the supervisor and or department head. If discipline is imposed the level of discipline will not be disclosed to the complainant.

25.9.2. If conduct in violation of this policy occurred, take action or recommend to the City Manager prompt and effective remedial action.

25.9.3. Take reasonable steps to protect the complainant from further harassment, discrimination, or retaliation..



- 25.9.4. Employees found to have engaged in discrimination or harassment covered by this policy may be subject to disciplinary action up to and including termination of employment. First-time violations of this policy, depending on the severity of the conduct, may lead to termination.
- 25.9.5. Employees found to have been dishonest or uncooperative during an investigation into allegations of unlawful harassment may be subject to disciplinary action up to and including termination of employment.
- 25.10. No Retaliation. Employees should feel free to report claims of unlawful harassment without fear of retaliation of any kind.
- 25.11. Dissemination of Policy. Copies of the City's Nondiscrimination Policy, and of these complaint procedures, shall be provided to all employees of the City, and to all new employees at the time of hiring. From time to time, the City may also conduct training for its employees to assist them in learning how to recognize, avoid and correct discriminatory behavior.
- 25.12. Confidentiality
- Every possible effort will be made to assure the confidentiality of complaints made under this policy. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by a department manager or the Human Resources Director. Any individual who discusses the content of an investigatory interview may be subject to discipline or other appropriate sanction. The employer will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order
- 25.13. Responsibilities of Management and Employees
- 25.13.1. Managers and Supervisors are responsible for being familiar with the City's policy on harassment, discrimination and retaliation, modeling appropriate behavior, treating all employees and contractors with respect and consideration, taking all steps necessary to prevent harassment, discrimination, or retaliation from occurring; receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints, reporting incidents of discrimination in a timely fashion; cooperating in any investigation concerning allegations of discrimination; and to the extent possible maintaining confidentiality concerning any investigation that is conducted.
- 25.13.2. Employees are responsible for being familiar with the City's policy on harassment, discrimination and retaliation; modeling appropriate behavior, treating all employees and contractors with respect and consideration, refraining from discriminatory behavior, including harassment; reporting incidents of discrimination in a timely fashion; cooperating in any investigation concerning allegations of discrimination; *and* maintaining confidentiality concerning any investigation that is conducted.

**Section 26.** All employees are also encouraged to communicate with one another to assist co-employees to avoid harassing, discriminatory, or otherwise offensive behavior. **EMPLOYEE SAFETY / VIOLENCE IN THE WORKPLACE POLICY**

26.1. **General Safety Rules**

26.1.1. Safety is everyone's responsibility. All employees must use safe work practices and report any unsafe conditions that may occur. The City also recognizes its responsibility to maintain safe workplaces.

26.1.2. All work-related injuries must be reported to the responsible supervisor. If there is any question regarding the appropriate supervisor, the report should be made immediately to the Human Resources Office.

26.1.3. If a reported work-related injury may result in lost work time, the employee should be provided with a workers' compensation claim form within one (1) working day of the injury.

26.1.4. Individual departments may adopt specific safety rules applicable to their operations.

26.2. **Violence in the Workplace Policy**

26.2.1. Acts of violence, whether threatened, gestured, or carried out will not be tolerated in any City workplace. Anyone witnessing or becoming the subject or victim of such behavior shall immediately report it to the proper authorities for investigation. Minimizing the threat of violence is a duty of all employees to ensure a safe workplace.

26.2.2. It is the responsibility of all employees to notify a supervisor, the Human Resources Office, or the City Manager immediately of any violent act or a threat, or if a violent act or threat against themselves or any other City employee occurs in the workplace or is directly associated with their employment with the City. Notification may be made to any of these persons as appropriate and shall be as soon as practicable. Retaliation or the threat of retaliation against a person who reports such an incident is unlawful and shall not be tolerated.

26.2.3. City employees shall not possess the following instruments at a City worksite or on City property, including City parking lots, unless there is a work-related purpose and written approval has been obtained from the employee's department manager:

- (1) Firearms;
- (2) Explosives or ammunition;
- (3) Fixed blade knives;
- (4) Folding knives with blades over 3.5 inches;

- (5) Illegal weapons such as defined in Section 12020 of the California Penal Code.

26.2.4. The City shall take appropriate disciplinary action, up to and including termination of employment, against employees who violate this policy.

26.2.5. On a case by case basis, or as needed, the City will offer incident-related counseling services through the City's Employee Assistance Program (EAP), or any other resource or program made available by the City, to employees who are the victims of violence or are subjects of threats of violence or intimidation at the workplace. The City administration will work with public safety, the courts and other authorities necessary to assure employee safety.

26.3. **Procedures - Imminent or Actual Violent Acts**

26.3.1. Employee Responsibilities. An employee who is in immediate apparent danger of a violent act, or another employee who witnesses a violent act or the threat of a violent act shall, whenever possible:

- (1) Place themselves in a safe location.
- (2) Call 911 and request the immediate response of a police officer. Be prepared to inform the police dispatcher of the circumstances and exact location of where an officer is needed.
- (3) Inform a supervisor or manager of the circumstances.
- (4) Refer media inquiries to the City Manager's Office.
- (5) Cooperate fully in any administrative or criminal investigation which shall be conducted within this policy and the laws.

26.3.2. Supervisor/Manager Responsibilities:

- (1) Place themselves in a safe location.
- (2) A supervisor or manager who is informed of a violent act or the threat of a violent act shall whenever possible ensure the immediate safety of employees and the worksite by calling 911, and notify the department manager and Human Resources Office.
- (3) If feasible, the supervisor/manager shall have the involved individuals wait in separate rooms or locations until the police take control or remove them from the premises.
- (4) In consultation with the City Manager, determine if it is appropriate to obtain a restraining order or other appropriate injunctive and/or other legal and/or equitable relief.
- (5) Reassign/relocate personnel or job duties, if required.
- (6) Terminate any business relationship.

- (7) Any other action deemed by the City to be necessary or required under the circumstances.
- (8) Supervisors shall obtain basic information from the employee and provide this to responding police personnel.
- (9) Refer media inquiries to the City Manager's Office.

26.3.3. Procedures – Future Violence:

- (1) Employees who have reason to believe they, or another City employee, may be victimized by a violent act sometime in the future, at the workplace or as a direct result of their employment with the City, shall inform their supervisor immediately so appropriate action may be taken. The supervisor shall inform his/her department manager.
- (2) Employees who have signed and filed a restraining order, temporary or regular, against an individual due to a potential act of violence, who would be in violation of the order by coming near them at work, shall immediately supply a copy of the signed order to their supervisor and the Human Resources Office.

26.3.4. Post-Incident Review:

- (1) The City Manager's Office, the Human Resources Office and the affected department may conduct a post-incident review and use the review to evaluate this policy and procedure.
- (2) The City may determine what continuing support systems are needed and oversee post-incident activities.

## **Section 27. OUTSIDE EMPLOYMENT**

- 27.1. City employees may not engage in any outside employment, enterprise or activity that the City determines is in conflict with or impairs the employee's ability to perform their duties and responsibilities, or any aspect of City operations. All outside employment must be authorized by the City Manager.
- 27.2. During the workday, employees are expected to devote their full time in the performance of their assigned duties as City employees. Any outside work, part time job, hobbies or personal business must be performed during off duty hours. Off duty hours include unpaid lunch break periods, but do not include other rest or break periods during which the employee continues to receive pay.
- 27.3. Employee shall not perform work for compensation outside of his/her City employment where any part of his/her efforts will be subject to approval by any officer, employee, board or commission of the City, unless the employee obtains the approval of his/her department head.

## **Section 28. VOLUNTEERS**

- 28.1. The City may utilize volunteers for the delivery of City services. The use of volunteers shall be subject to approval by the City Manager.
- 28.2. Volunteers shall not be eligible for salaries, benefits or other compensation unless specifically provided for by the City. Subject to approval by the City Manager, necessary equipment or uniforms and reimbursement for approved actual expenses and mileage may be provided.
- 28.3. Employee Volunteers. Subject to approval by the City Manager, employees may volunteer to provide services to the City outside of their normal duties, provided they are not performing the same or similar duties for which they or any other City employee are normally compensated and the responsibilities are occasional and sporadic. Employees engaging in such volunteer assignments shall not be entitled to compensation.

## **Section 29. DRUG AND ALCOHOL FREE WORKPLACE**

- 29.1. The City's workplace shall be drug and alcohol-free. The City has established a Drug Free Awareness Program to inform employees about City policy with respect to drug abuse in the workplace.
- 29.2. No employee shall unlawfully manufacture, distribute, dispense, possess, use or be under the influence of any alcoholic beverage, drug or controlled substance as defined in the Controlled Substances Act and Code of Federal Regulations during work hours or in any City designated workplace. Alcoholic beverages may only be served on City property at events expressly approved by the City Manager.
- 29.3. Upon reasonable suspicion of an employee being under the influence while on duty, the City may require the employee to submit to drug and alcohol testing, at the City's expense. Employees who decline to submit to such testing may be subject to discipline, up to and including termination of employment.
- 29.4. The City shall distribute at initial appointment and periodically thereafter the following Notice to employees.

**NOTICE TO EMPLOYEES**

YOU ARE HEREBY NOTIFIED that it is a violation of City policy for any employee at a City work site to unlawfully manufacture, distribute, dispense, possess, use or be under the influence of any alcoholic beverage, drug or controlled substance as defined in the Controlled Substances Act and Code of Federal Regulations.

City work site is defined as any place where City work is performed, including a City owned building or other premises and any City owned or approved vehicle used in the conduct of City business.

As a condition of your continued employment with the City, you will comply with the City's policy on Drug and Alcohol-Free Workplace and will, any time you are convicted of any criminal drug or alcohol statute violation occurring in the workplace, notify your supervisor of this conviction no later than five days after such conviction.

The following drug and alcohol counseling, rehabilitation, and/or employee assistance programs are available locally:

CIGNA Behavioral Health Plan, California – Telephone toll-free 1-888-371-1125

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\_\_\_\_\_  
(Employee Signature)

\_\_\_\_\_  
(Date)

### **Section 30. NEPOTISM POLICY**

- 30.1. No employee, prospective employee, or applicant shall be improperly denied employment or benefits of employment on the basis of marital status with another employee or official of the City.
- 30.2. Notwithstanding the above, the City retains the right to take appropriate steps to avoid inappropriate working relationships among relatives, including married persons. For administrative purposes, a relative shall be defined as a spouse or domestic partner, child, step-child, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, cousin, niece, nephew, parent-in-law, brother-in-law, sister-in-law or any other individual related by blood or marriage. The City retains its rights to:
- (1) Refuse to place one party to a relationship under the direct or indirect supervision of the other party of a relationship.
  - (2) Refuse to place both parties to a relationship in the same department, division, or facility when such action has the potential for creating adverse impact on supervision, safety, security, or morale, or involves potential conflicts of interest.
  - (3) Disqualify one party to a relationship for a position privy to confidential personnel matters who has a relative already in the City's employment when the relationship may compromise confidential information.
  - (4) Effect a transfer in the event the City learns of circumstances described above.

### **Section 31. GIFTS AND GRATUITIES**

- 31.1. No officer or employee of the City shall solicit or accept, for self or family, favors, benefits, gifts or gratuities under circumstances which might be construed as influencing the performance of the employee's governmental duties.

### **Section 32. USE OF INFORMATION AND ELECTRONIC SYSTEMS**

- 32.1. General. For purposes of this policy, electronic systems are defined as all hardware, software, and other electronic communication or data processing devices owned, leased, or contracted for by the City and available for official use, by the City's employees. This use includes, but is not limited to, electronic mail, voice mail, calendaring, and systems such as the internet. The City's Administrative Regulation: Mobile Computing Devices is incorporated by reference.
- 32.2. Public Disclosure. Employees who use electronic systems and/or tools provided by the City cannot be guaranteed privacy. Under the Public Records Act, e-mail messages and information stored in computers and other electronic systems of the City are public records subject to disclosure to the public or may be subpoenaed. In addition, the City reserves the right to review, audit, and disclose

all matters sent over and/or stored in the City's electronic system or on a City issued device at any time without advance notice. The City Manager, or his/her designee, retain the right to enter and/or retrieve an employee's electronic communication system, data files, logs and programs used on City owned electronic systems. Security features provided by the electronic communication system, such as, passwords, access codes, or delete functions, shall not prevent authorized City personnel from accessing stored electronic communications. Deletion of e-mail messages or files may not fully eliminate the message from the system.

- 32.3. Serial Meetings. In accordance with the Brown Act (Govt. Code Section 54950 et seq.), City employees must take care to ensure that electronic systems are not used to transmit, either all-at-once or serially, City legislative officials' positions on matters of City business to a majority of any City body of elected officials.
- 32.4. Use During Normal Business Hours. The City's electronic systems are provided for the purposes of conducting business. Except for brief, occasional, necessary or emergency use, the City's electronic systems shall not be used for personal use during normal business hours. Use of non-City business software including games or entertainment software is considered an improper use of these electronic systems. Employees shall not conduct personal or private business, including purchase of goods or services via the City's internet connection. Such uses are prohibited at all times during normal business hours or outside normal business hours.
- 32.5. Account Access. Employees shall not attempt to gain access to another City employees' personal file of electronic mail messages without the latter's express written permission or permission from the City Manager or designee.
- 32.6. Prohibited Use.
  - 32.6.1. The electronic mail and other electronic systems of the City shall not be used in a way that may be disruptive, offensive to others, harmful to morale or violate City policies and procedures or laws. These electronic systems shall not be used to solicit or proselytize others for commercial venture, religious or political causes, outside organizations, or other non-job-related solicitations. Improper use includes any display or messages that are derogatory, defamatory, obscene, violent, or offensive to employees or the public and/or any messages that are of a sexual or discriminatory nature, including, but not limited to, slurs, offensive jokes, or other offensive language of disparagement of others based on their race, national origin, sex, sexual orientation, age, disability, or religious beliefs.
  - 32.6.2. Employees are required to comply with all operational guidelines developed by the City. Such guidelines will address operational standards such as: message retention, schedule, copyright issues, use of passwords, system availability, back-up procedures, etc.
  - 32.6.3. Incidental and occasional personal use of electronic mail is permitted within the City, but the messages will be treated no differently from other messages and will remain the property of the City as to review and auditing techniques. All



personal use shall be done outside of normal working hours and not during provided morning and afternoon breaks or lunch periods.

32.6.4. Occasional personal access to the internet may be permitted. However, such personal use shall only be permitted if it does not interfere with or delay the employee's work or interfere with regular City business and shall comply with all provisions herein. All use of the internet may be periodically reviewed by the City Manager or designee.

32.6.5. In addition to other prohibited uses, employees shall not: Install programs on the City computer system (including but not limited to virus checking and screen savers) without the prior written consent of the Department Head or Human Resources Office, or each of their designees; copy City Programs for personal use; disclose an account password or otherwise make the account available to others; or infringe on others' access and use of the City's computers, including but not limited to:

- (1) The sending of excessive messages, either locally or offsite;
- (2) Unauthorized modification of system facilities, operating systems or disk partitions;
- (3) Attempting to crash or tie up a City computer or network;
- (4) Damaging or vandalizing City computing facilities, equipment, software, or computer files;
- (5) Intentionally developing or using programs which disrupt other computer users or which access private or restriction portions of the system and/or damage the software or hardware components of the system;
- (6) Installing or using a modem on City owned or leased computers without the prior written consent of the Department Head or Human Resources Office, or each of their designees;
- (7) Forwarding or reproducing communications marked attorney-client privileged or confidential without the prior consent of the City Manager and/or City Attorney; or violating any federal, state or local law in the use of City information systems.

32.7. Public Records.

32.7.1. All City records, including those stored on paper and electronic media, may be governed by the mandatory public disclosure requirements of the Public Records Act (Government Code section 6250 et seq.), and the limited exceptions thereto. If a draft record is retained, it may become a public record subject to disclosure unless it is subject to an exception under the Public Records Act.

32.7.2. All records, whether stored on paper or electronic media, shall not be destroyed unless prior written authorization is obtained pursuant to Government Code Section 34090 or applicable City resolution.

- 32.7.3. Public Records requests shall be handled in accordance with Government Code section 6250 et seq.
- 32.7.4. The City reserves the right for any reason to access and disclose all messages and other information sent or received by electronic means or stored on electronic media.
- 32.7.5. The City has the right to delete or retain any or all messages or other information sent or received by electronic means or stored on electronic media by a City employee who is no longer employed by the City.
- 32.8. Intellectual Property Rights. No employee shall violate any copyright or license to software or other online information (including, but not limited to, text images, icons, programs, etc.) whether created by the City or any other person or entity.
- 32.9. Failure to Comply. City employees who fail to comply with the terms and conditions of this policy shall be subject to disciplinary procedures that may be informal and/or formal actions depending upon the severity of the offense. Discipline may result in termination of employment with the City.

### **Section 33. DRESS CODE**

- 33.1. Employees of the City are required to dress appropriately for the jobs they are performing. Therefore, the dress regulations contained in this section shall be followed.
- (1) Prescribed uniforms and safety equipment must be worn where applicable. City uniforms shall be worn in a professional manner.
  - (2) Footwear must be appropriate for the work environment and functions being performed.
  - (3) Jewelry is acceptable except in areas where it constitutes a health or safety hazard.
  - (4) Employees shall be mindful of other employees' sensitivity to perfume and other fragrances, and employees shall refrain from wearing fragrances that are offensive or harmful to others.

### **Section 34. USE OF CITY EQUIPMENT / AUTOMOBILE USE**

- 34.1. No City owned equipment, autos, trucks, instruments, tools, supplies, machines, or any other item that is the property of the City shall be used by an employee other than for City business, unless the City Manager approves in advance. No employee shall allow any unauthorized person to rent, borrow, or use any City property, except upon prior approval of the City Manager.
- 34.2. Automobile Use. City owned vehicles are to be used for travel on City business by City employees. City employees who utilize City-owned vehicles or their own personal vehicle in the performance of their duties must maintain a valid California driver's license at all times. In those instances where a City vehicle is

not available for use and the employee is required to use his/her private vehicle on City business, employee shall be compensated for such use as provided in the relevant Wage and Compensation Plan or Memorandum of Understanding as adopted by Council resolution. Prior to using a private vehicle on City business, employee must obtain and provide City with a Certificate of Insurance on the form provided by the City which evidences that employee has comprehensive automobile liability insurance or business automobile liability insurance in an amount of at least \$300,000.

- 34.3. Use of Vehicle Safety Belts. Motor vehicles purchased by the City for use by city personnel are equipped with safety belts. All city personnel who drive city vehicles shall use and ensure that all passengers use available safety belts in the vehicles being operated. The police department may adopt rules and regulations which supersede this provision which will govern the use of seat belts by police officers and persons taken into custody. Employees will inspect the serviceability of the safety belts at the start of each work day. Passengers shall ride only in those positions of a city vehicle designed for the carrying of passengers.
- 34.4. The City will verify with the DMV the validity of each employees' driver license on an as needed basis. City DMV Program:
- 34.5. The City complies with the drug and alcohol testing regulations of the Department of Transportation (DOT) (49 CFR part 40) and the Federal Aviation Administration (FAA) (14 CFR part 120). All persons performing any of the following safety-sensitive functions are subject to the DOT/FAA drug and alcohol testing program:

Maintenance Worker II

Maintenance Worker III

Maintenance Worker IV

Maintenance Worker Lead

For more information relating to the DOT program, visit the following website:  
<http://www.dot.gov/ost/dapc/>

## **Section 35. TRAVEL AND TRAINING POLICY**

- 35.1. The City is committed to ensuring that its employees receive adequate training to perform their jobs. Training and travel are subject to department approval. Training opportunities that occur outside normal work hours require approval by the Department Head. Overnight travel also requires approval by the Department Head.
- 35.2. The City generally requires that training, and attendant travel, be scheduled in a way that will minimize the City's overtime liability

- 35.3. City business travel shall be carried out in an efficient, cost-effective manner resulting in the best value to the City. Telecommunications instead of travel should be considered when possible. The City will pay or reimburse all business travel related expenses based on reasonableness and on the actual amount of expense incurred by the employee. Receipts when available are required for all travel expenses. Reimbursement of personal expenses and alcoholic beverages shall not be authorized for payment at any time. Department directors are responsible for determining the necessity, the available resources, and the justification for the method of employee business travel.

### **Section 36. GARNISHMENT FEES**

- 36.1. City will to deduct the maximum allowed by state law from the employee's earnings for each payment made under a wage garnishment or earnings withholding order to reimburse the City for administrative costs.

### **Section 37. MISCELLANEOUS**

- 37.1. These rules and regulations shall only become effective when they are adopted by the City Council. Upon adoption they shall supersede any and all City-wide and/or departmental personnel management policies, rules, regulations, and procedures previously adopted, except those adopted by order of a department manager which are not in conflict with these Rules.
- 37.2. Any and all provisions contained in a Memorandum of Understanding (MOU) in effect at the time of adoption of these Rules, and which may be in conflict with the provisions of these Rules, shall remain in effect and supersede these Rules until such time as the conflicting provisions of the MOU may be modified, through the meet and confer process, to conform to these Rules. No existing MOU shall be modified, and no new MOU shall be entered into, which would establish provisions which would be in conflict with these Rules unless expressly identified by the City Manager and recommended to the City Council for review and approval.
- 37.3. No Contract. These policies do not create a "contract" of employment between the City and any employee. Public employment is statutory, not contractual.
- 37.4. Severability. If any part of these Rules is determined to be unconstitutional or illegal, such part shall be severed from these rules and the remaining Rules shall be given full force and effect.
- 37.5. Word Usage. The term "City" as used in these rules refers to the City of Fort Bragg. Responsibilities and rights of the City under these rules are exercised by the City Manager, and may be delegated by the Manager in his/her discretion.

## Section 38. DEFINITION OF TERMS

<b>Allocation</b>	Assignment of a position to a class on the basis of the kind, difficulty and responsibility of work of the position.
<b>Anniversary Date</b>	Date an employee is appointed, promoted, demoted, or reinstated to a position within the classified service.
<b>Applicant</b>	Any person submitting a formal, completed application for employment with the City.
<b>Appointing Authority</b>	City Manager.
<b>Appointment</b>	Placement of a certified candidate from an eligible list to a position within the classified service. For employees rehired after a resignation or reinstatement from layoff, the appointment date is the re-hire or reinstatement date.
<b>At-Will</b>	At-will employees serve at the pleasure of the City Manager, who retains the authority to terminate any such employee at any time with or without notice or cause.
<b>City</b>	As used in these rules refers to the City of Fort Bragg. Responsibilities and rights of the City under these rules are exercised by the City Manager, and may be delegated by the Manager in his/her discretion.
<b>Class</b>	A position or group of allocated positions sufficiently similar in duties performed, degree of supervision exercised or required, desirable requirements of training, and other qualifications such that each position allocated to the class may have the same descriptive title, tests of fitness to determine qualified employees, schedule of compensation, or same basic desirable qualification requirements.
<b>Classified Service</b>	All full-time employees of the City of Fort Bragg, except elected officials, Council appointees, the City Manager, appointive officers serving without compensation, and all temporary, provisional seasonal, transitional, emergency and part-time employees as defined herein.
<b>Class Specification</b>	The written description of a class, including the title; a statement of the nature of the work, examples of duties and responsibilities, and the requirements that are desirable for the satisfactory performance of the duties of the class.
<b>Class Title</b>	The title assigned to any particular class and used for reference to that class.
<b>Compensation</b>	Salary, wages, fees, benefits, allowances, or monies paid to, or on behalf of, an employee for personal services.

<b>Compensatory Time Off</b>	Time off in lieu of pay for overtime worked.
<b>Continuous Examination</b>	An open competitive examination which is administered periodically, resulting in the placement of names on an employment eligible list.
<b>Continuous Service</b>	Employment without interruption. Includes approved leaves of absence to serve in the armed forces of the United States, as provided by Section 395 of the Military and Veterans Code, as amended.
<b>Demotion</b>	The involuntary movement of an employee from a position in one class to a position in another class having a lower maximum salary rate than the employee's class.
<b>Discharge</b>	Dismissal and/or involuntary separation of an employee for cause from the classified service.
<b>Eligible</b>	A person whose name is on an active reemployment, promotional, or initial appointment list and who may, under these rules, be certified for consideration of appointment to a position in the classified service.
<b>Emergency Employee</b>	An individual appointed to a classified or non-classified position for a period not to exceed thirty (30) days.
<b>Employee</b>	An individual appropriately appointed to a position within the classified service.
<b>Employment Date</b>	For retirement, sick leave, and other benefit purposes, the effective date of an employee's initial appointment to a full-time or regular part-time position within the classified service.
<b>Grievance</b>	A statement by a grievant that a controversy, dispute, or disagreement of any kind or character exists arising out of, or in any way involving, interpretation or application of the terms of these Rules or of any existing (City and/or department) rule, policy, MOU, or practice, or that an employee has been treated unfairly or inequitably, or that there exists a condition which jeopardizes employee health and safety, which is beyond the control of the grievant. Grievances must relate specifically to actions or conduct affecting the employee filing the grievance.
<b>Grievance Procedure</b>	The systematic means by which an employee may obtain consideration of a grievance.
<b>Grievant</b>	An employee or group of employees or the recognized employee organization filing a grievance.

**Initial Appointment** The appointment of a person to a position in the classified service. Initial appointment does not include employees who are present probationary or regular employees of the City or persons who are being reinstated or reemployed from a reemployment list.

**Layoff** The separation of an employee from the classified service made necessary by lack of work, appropriation of monies, or other reasons not related to the fault, delinquency, or misconduct of the employee.

**Management** The management group is comprised of the following full time, at-will appointments (positions may be vacant and/or currently unauthorized for budgetary purposes):

- Director of Public Works
- Director of Finance
- Director of Community Development
- Chief of Police
- City Clerk/Assistant to the City Manager
- City Engineer
- Assistant City Manager

Such employees are so distinguished as they: 1) have as their primary duty the management of an enterprise or recognized department or subdivision; 2) have authority to hire and fire, or to render suggestions as to those decisions; 3) customarily and regularly exercise discretionary powers; 4) have as their primary duty the function as a manager, and 5) do not devote more than 20 percent of their weekly work time to non-management activities.

**Meet and Confer Process** The procedures established by Section 3500, et seq., of the California Government Code, as amended.

**Merit and Salary Advancement** A salary increase from one salary step to a higher salary step in the same pay range.

**Mid-Management** The mid-management group is comprised of the following full-time, regular classifications (positions may be vacant and/or currently unauthorized for budgetary purposes):

- Assistant Finance Director
- Associate City Engineer
- Engineering Technician
- Human Resources Analyst
- Planner
- Police Lieutenant
- Public Works Supervisor
- Treatment Plant Superintendent

**Miscellaneous Employee** An employee of the classified service other than a sworn safety officer or management employee.

<b>Non-Classified Employee</b>	All officers and employees of the City not within the classified service as defined above.
<b>Open Competitive Examination</b>	An examination open to qualified applicants either within or outside the classified service.
<b>Part-Time Position</b>	A budgeted position of less than forty (40) hours per week during each year.
<b>Pay Range</b>	The range of salary rates or steps for a position class.
<b>Position</b>	Group of current duties and responsibilities assigned or delegated by competent authority and requiring full or part-time services of one (1) employee.
<b>Probationary Employee</b>	An individual in a regular classified position who has been appointed or promoted from any eligible list, but who has not yet completed the probationary period.
<b>Probationary Period</b>	A designated period of employment in a regular classified position following appointment from an appropriate eligible list. The appointment may be original or promotional.
<b>Promotion</b>	The movement of an employee from a position of one class to a position of another class having a higher maximum salary rate with an increase in duties and responsibilities over the employee's present class.
<b>Provisional Appointment</b>	The appointment of a person possessing the minimum qualifications last established for a particular class other than eligibility by examination and who has been appointed to a position in that class in the absence of available eligibles.
<b>Provisional Employee</b>	An employee appointed to fill a full time position vacancy for a maximum six (6) month period of time when no valid employment eligible list exists.
<b>Reallocation</b>	The official determination that a position be assigned to a class different from the one to which it was previously assigned.
<b>Recognized Employee Organization</b>	An employee organization which has been formally acknowledged by the City as the employee organization that represents the employees in an appropriate representation unit pursuant to Article I(J) of the Employer-Employee Resolution of the City of Fort Bragg.



<b>Reemployment List</b>	List of former probationary or regular classified employees of particular class who were separated due to reduction in force and are entitled to have their names certified for appointment to vacant position in that class.
<b>Regular Employee</b>	An employee having satisfactorily completed the required probationary period.
<b>Regular Full-Time Position</b>	A classified position requiring a minimum of forty hours of work per week.
<b>Rehire Date</b>	Date of reinstatement.
<b>Reinstatement</b>	Reappointment without examination after a break in service to a specified regular classified position.
<b>Resignation</b>	Voluntary termination of employment by an employee.
<b>Safety Employee</b>	A fire or police employee, as defined by California Public Employees' Retirement System statutes.
<b>Seasonal Employee</b>	An individual appointed to a position established on a recurring basis of forty (40) hours per week, or less, for a specified season of six (6) consecutive months or less.
<b>Selection Process</b>	The process of testing, evaluating, investigating, and determining the fitness and qualification of applicants.
<b>Seniority</b>	Status, priority or precedence based on total amount of actual continuous service in the classified service or a specific class, excluding approved leaves of absence without pay in excess of thirty (30) days, but including leaves of absence for service in the armed forces of the United States.
<b>Separation</b>	Leaving the classified service for any reason.
<b>Suspension</b>	The temporary removal of the employee from his or her duties, with or without pay, for disciplinary or pre-disciplinary investigation purposes.
<b>Temporary Employee</b>	Those employees who work an average of less than twenty (20) hours per week or 1,000 hours per year over a fifty-two (52) week period.
<b>Termination</b>	The separation from City service with the action initiated by the employee voluntarily or by the City within the provisions of these Rules which state the causes and procedures for such action.
<b>Transfer</b>	The movement of an employee within a department or between departments from one position to another position in the same class or

another class having the same maximum salary, involving the performance of similar duties and requiring substantially the same basic qualifications.

**Transitional Employee**

A person appointed to a position within an existing or new class which is created for a specific purpose and/or program which will terminate within a given period of time established for the program, and for which special rules and procedures concerning working conditions, compensation, selection and appointment may be established as needed by the City Manager and/or City Council.

**Vacancy**

A duly created position which is not occupied and for which monies have been appropriated.

**Y-Rating**

An action to freeze an employee's salary at the current salary until such time that the top step of the salary range for such position equals or exceeds the employee's salary at the time of the Y-Rating action.